
EXHIBIT 19.

<p>1 in the store.</p> <p>2 Q. Do you have any kind of an estimate as to</p> <p>3 how long it took a manager to go through that</p> <p>4 process of transmitting sales data?</p> <p>5 A. It was probably 15 to 20 minutes, maybe</p> <p>6 less if you're really efficient.</p> <p>7 Q. And where did they typically perform that</p> <p>8 function?</p> <p>9 A. There was a specific computer that was</p> <p>10 used for that. I think it was maybe even Theresa</p> <p>11 Cruz's actually. I'm not sure.</p> <p>12 Q. What other duties did managers perform at</p> <p>13 closing time other than transmitting this data as</p> <p>14 we just talked about and recovering their</p> <p>15 department?</p> <p>16 A. Well the only other thing that really you</p> <p>17 needed to do or needed to be done by a manager is</p> <p>18 to inspect the employee's belongings, purses,</p> <p>19 bags, whatever, gym bag, anything of that nature</p> <p>20 an allow them to leave through the employee</p> <p>21 entrance.</p> <p>22 Q. Were there occasions after the close of</p> <p>23 the store but before sales associates went home</p> <p>24 when you had duties that required you to be on the</p> <p>25 telephone to talk with customers or other managers</p> <p>Page 38</p>	<p>1 lower level and went out into the Galleria Mall.</p> <p>2 Q. And on occasion did you perform those</p> <p>3 inspections?</p> <p>4 A. Yes.</p> <p>5 Q. And I want to focus just on the inspection</p> <p>6 part itself. What would typically -- what would</p> <p>7 you typically do to performing that inspection?</p> <p>8 A. Basically you'd look into any packages or</p> <p>9 bags or anything of that nature where some</p> <p>10 merchandise could be concealed. Basically that's</p> <p>11 what you were looking for, something of that</p> <p>12 nature. If somebody made a purchase, check the</p> <p>13 receipt or something of that type.</p> <p>14 Q. Could you describe the process that a</p> <p>15 sales associate typically went through at the end</p> <p>16 of the day when you or someone else indicated that</p> <p>17 their department was clean and ready and they were</p> <p>18 permitted to leave?</p> <p>19 A. Well, from my area they would go</p> <p>20 downstairs to the employee lockers where they keep</p> <p>21 their belongings, gathered their things, and,</p> <p>22 actually, they should have clocked out prior to</p> <p>23 that point, then go get their things and wait for</p> <p>24 a manager to release them, follow the inspection,</p> <p>25 the loss prevention inspection.</p> <p>Page 40</p>
<p>1 or people from Polo?</p> <p>2 A. Not a requirement. Nothing was done on a</p> <p>3 regular basis. It could happen. It wasn't</p> <p>4 necessarily something you had to do on a regular</p> <p>5 basis.</p> <p>6 Q. What did Tin Hong Hua typically do during</p> <p>7 the shutdown process?</p> <p>8 A. You know, I don't know what exactly he was</p> <p>9 doing. I was upstairs, and he most of the time</p> <p>10 would be in his office which is in the lower</p> <p>11 level. When he was there at closing, he would</p> <p>12 often do that shutdown transmittal, you know, that</p> <p>13 sort of thing. He'd shut down the store.</p> <p>14 Q. I want to talk about the loss prevention</p> <p>15 inspections.</p> <p>16 You indicated that managers would check</p> <p>17 bags and belongings of individuals before they</p> <p>18 left the store.</p> <p>19 A. (Nodding head.)</p> <p>20 Q. Yes? Is that a yes?</p> <p>21 A. That is correct, yes.</p> <p>22 Q. And was there a specific entrance/exit</p> <p>23 that employees were required to use at the end of</p> <p>24 the business day?</p> <p>25 A. Yes. The employee entrance was in the</p> <p>Page 39</p>	<p>1 Q. And how would sales associates typically</p> <p>2 notify a manager that they were ready to have a</p> <p>3 loss prevention inspection performed?</p> <p>4 A. Well, sometimes they would call. There</p> <p>5 was a phone right there near that or very near to</p> <p>6 that door.</p> <p>7 My understanding was that was a location</p> <p>8 where there was at one time a loss prevention</p> <p>9 person, but then that was a position that no</p> <p>10 longer existed when I started working there, but,</p> <p>11 at any rate, there was a telephone call there, and</p> <p>12 they would call and say "We're waiting."</p> <p>13 Q. Would they call different departments?</p> <p>14 A. Yeah, trying to track down a manager.</p> <p>15 Q. Would they sometimes page a manager over</p> <p>16 the PA system?</p> <p>17 A. Same system, yeah.</p> <p>18 Q. And when you heard a page, what typically</p> <p>19 would people say over the PA system?</p> <p>20 A. Basically just to let you know that they</p> <p>21 were waiting to be allowed to leave.</p> <p>22 Q. And were there occasions when you heard</p> <p>23 more than one page asking for a manager at the</p> <p>24 close of the business day?</p> <p>25 A. Yes.</p> <p>Page 41</p>

11 (Pages 38 to 41)

Golden Gate Reporting

<p>1 Q. How often would that happen?</p> <p>2 A. It's hard to day. It depended on I think</p> <p>3 really the time of the year. I think at holiday</p> <p>4 time it was more frequent than others probably</p> <p>5 just because the volume of traffic through the</p> <p>6 store during the day required much more in the way</p> <p>7 of cleanup and preparation for the next day, and</p> <p>8 so some people would be finished, others were not,</p> <p>9 and those who were ready to go wanted to leave,</p> <p>10 and they would page or call looking for a manager.</p> <p>11 Managers such as myself, I was upstairs in</p> <p>12 my area, and the other manager if it women's or</p> <p>13 home furnishings, they were located downstairs</p> <p>14 closer to that exit, so it was always my hope that</p> <p>15 somebody from downstairs would let them out so I</p> <p>16 didn't have to go downstairs and back upstairs.</p> <p>17 Q. So on occasion you would hear a page or</p> <p>18 get a call saying "We're ready to go."</p> <p>19 A. Yeah.</p> <p>20 Q. And let's deal with when you heard a page.</p> <p>21 On occasion did you hear a page that sales</p> <p>22 associates were waiting at the employee exit in</p> <p>23 which you didn't respond to it hoping that a</p> <p>24 manager from downstairs would walk over and do the</p> <p>25 inspection?</p>	<p>1 A. Oh, I think sometimes they would say</p> <p>2 they'd been waiting 10, 15 minutes.</p> <p>3 Q. Did you ever go down to do a loss</p> <p>4 prevention inspection to find anyone sitting on</p> <p>5 the floor in the hallway?</p> <p>6 A. Yes.</p> <p>7 Q. How often did that occur?</p> <p>8 A. It was not unusual that there were groups</p> <p>9 of people waiting to leave. They'd be sitting on</p> <p>10 the floor there.</p> <p>11 Q. At the close of business was it the case</p> <p>12 that individuals from different departments, maybe</p> <p>13 even your department, left at different times and</p> <p>14 so required inspections to be performed?</p> <p>15 A. Yes, that's right.</p> <p>16 So as they would -- as each one would be</p> <p>17 ready to leave, they would want somebody to come</p> <p>18 to the door to do the inspection so that they</p> <p>19 could leave, which, since there was nobody</p> <p>20 assigned to that position, there was nobody -- not</p> <p>21 one manager was assigned to watch, you know, stay</p> <p>22 at the door and release everybody as they come</p> <p>23 through, then that's why it would occur that, you</p> <p>24 know, three or four, five people might be sitting</p> <p>25 there waiting to leave, waiting for a manager to</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Yes.</p> <p>2 Q. Did you ever hear that any of the managers</p> <p>3 were particularly nonresponsive to pages or</p> <p>4 requests to have loss prevention inspections</p> <p>5 performed?</p> <p>6 A. Not specifically. Just in general</p> <p>7 sometimes it seemed that to the sales associates</p> <p>8 that they were waiting a long time, and they would</p> <p>9 become impatient.</p> <p>10 Q. Did any sales associates ever tell you</p> <p>11 that they believed they had waited a long time for</p> <p>12 the loss prevention inspection to occur?</p> <p>13 A. Yes.</p> <p>14 Q. Was that on a single occasion or a number</p> <p>15 of occasions?</p> <p>16 A. More than once.</p> <p>17 Q. Do you remember any specific individuals</p> <p>18 who told you that they had been waiting for what</p> <p>19 they thought was an unreasonable amount of time at</p> <p>20 the back door?</p> <p>21 A. Not specifically, no.</p> <p>22 Q. Do you recall in general or specifically</p> <p>23 how long a sales associate told you that they had</p> <p>24 been waiting to have a loss prevention inspection</p> <p>25 performed?</p> <p style="text-align: right;">Page 43</p>	<p style="text-align: right;">Page 44</p> <p>1 come, and for a manager it was a bit of a strain</p> <p>2 to go back and forth to your department to let one</p> <p>3 person out, go back, let another one out, go. It</p> <p>4 wasn't unusual for managers not to respond to the</p> <p>5 first call for someone to let them out.</p> <p>6 Q. Were there occasions where at the close of</p> <p>7 business you went down to the employee exit more</p> <p>8 than one time to let people out?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have any recollection of kind of</p> <p>11 the length of time that you're aware of between</p> <p>12 the first person or group of people leaving at the</p> <p>13 close of business and the last people to finish up</p> <p>14 to be released and waiting for their loss</p> <p>15 prevention inspection?</p> <p>16 A. Well, sometimes the very first people to</p> <p>17 be finished would be from one of the departments</p> <p>18 in the lower level of the store. They might be</p> <p>19 done within 10 minutes of the store closing and be</p> <p>20 out and able to leave. A lot of times, very</p> <p>21 often, people in the men's area were still working</p> <p>22 another 30 minutes. Wouldn't be that unusual,</p> <p>23 especially again to have this little repetition</p> <p>24 for the holiday time.</p> <p>25 You know, a big portion of my six months</p> <p style="text-align: right;">Page 45</p>

12 (Pages 42 to 45)

1 A. That you have to be physically checked out by a
 2 manager.
 3 Q. And were you told the reason for the necessity to
 4 be checked out physically by a manager?
 5 A. No.
 6 Q. Did you have some intuition as to what the reason
 7 was?
 8 A. Yes, absolutely.
 9 Q. And so every day that you worked -- let me back up.
 10 On a daily basis, were you actually checked in? Was there
 11 some process to formally check you in to the store?
 12 A. Well, no one was -- I mean, if you're referring to
 13 looking through someone's bags while you came in?
 14 Q. Thank you for the clarification.
 15 A. Then no.
 16 Q. Okay. So we'll get into the check-in procedures a
 17 little later. I'm now focusing on the checkout procedures.
 18 A. Okay.
 19 Q. And if I refer to them as loss prevention searches,
 20 would you understand what I'm talking about?
 21 A. Yes.
 22 Q. And you understood the purpose was to make sure
 23 that -- even though you were an employee, they wanted to
 24 make sure you weren't taking goods or materials out of the
 25 store --

Page 53

1 A. Yeah.
 2 Q. -- that hadn't been paid for?
 3 A. Sorry. Twice now. It's not bad.
 4 Q. Let's break these loss prevention searches up into
 5 two pieces if we could. I want to talk about the end of
 6 your shift or the end of the day.
 7 A. Okay.
 8 Q. Did you have a normal schedule that you worked
 9 during your tenure at the company?
 10 A. I would -- you mean like a --
 11 Q. Date, what days of the week.
 12 A. You know what, I was a full-time employee, so I
 13 worked any of the given days because they were open seven
 14 days a week.
 15 Q. Did you ever work more than five days a week?
 16 A. I don't -- I don't recall. I would say no though.
 17 They were pretty good about that.
 18 Q. So ignoring some aberrant event, your normal
 19 schedule was to work five days a week?
 20 A. Or 40 hours.
 21 Q. Or 40 hours?
 22 A. Yes. Five days or 40 hours.
 23 Q. So you could work 40 hours in less than five days
 24 on occasion?
 25 A. I don't actually remember any occasion, but it

Page 54

1 is -- it could be possible, yes.
 2 Q. So if I were to -- your schedule was to work 40
 3 hours a week?
 4 A. Correct.
 5 Q. Normally spread over five days but it could have
 6 been spread over four days?
 7 A. Yeah.
 8 Q. And do you recall what hours your normal shift was?
 9 A. No. It would -- it would vary. You could be on
 10 the opening shift, the mid shift -- actually, I'm sure --
 11 I'm not sure if they had a mid shift, but you could be an
 12 opening shift or a closing shift.
 13 Q. Do you recall -- do you have a recollection of what
 14 the opening shift hours represented and the closing shift
 15 hours represented?
 16 A. I don't understand the question.
 17 Q. Opening shift starting at time A, ending at time B
 18 as opposed to closing shifts starting at a later time and
 19 ending at a later time?
 20 A. I actually have no recollection of when I was
 21 supposed to be there or when I was to leave.
 22 Q. Regardless of the time, explain to me how the
 23 process worked when you were ready to leave at the end of
 24 your shift?
 25 A. At the end of my shift?

Page 55

1 Q. Yes, ma'am.
 2 A. The process. It would go something as follows: A
 3 manager would come to make sure that your area that you were
 4 supposed to clean up was all in order so you would get an
 5 okay that you could leave for the evening; you would then go
 6 to one of the registers to clock out the time that you were
 7 physically leaving the floor. Sometimes -- I would say
 8 probably about 50 percent of the time that particular
 9 computer or register in your area had already been closed
 10 down and counted, and you would have to go into the
 11 operations manager's, which was Theresa Cruz. I think she
 12 was an operations manager at the time. I don't really
 13 remember hundred percent. And you would clock out on her
 14 register. So you would get a time stamp.
 15 You would gather your things because you couldn't
 16 clock out before you gathered your things which is
 17 understandable. No big deal. Gather your things and then
 18 wait by the back door for a manager or someone who wasn't a
 19 regular like kind of floor employee. Someone who had the
 20 authority basically. Excuse me. Someone who had the key,
 21 that's what it was, key holder. Someone who had a key to
 22 let you out, because if you went out on your own, alarm
 23 would sound, and that's how it worked. Now -- okay.
 24 Q. All right. So going through this checkout
 25 process --

Page 56

14 (Pages 53 to 56)

<p>1 A. Sure.</p> <p>2 Q. The first step was that a person who had</p> <p>3 responsibility for your general floor area had to tell you</p> <p>4 that your area was suitable for you to depart; is that a</p> <p>5 fair statement?</p> <p>6 A. Yes.</p> <p>7 Q. And did that have to be a manager from your</p> <p>8 department, or could it be any manager in the store?</p> <p>9 A. It could be any manager in the store.</p> <p>10 Q. And would that process be the same if you were</p> <p>11 leaving before the store was closing? As an example, let's</p> <p>12 say you were departing at 3:00 and the store was staying</p> <p>13 open till 6:00, would that same first step in the process be</p> <p>14 applicable?</p> <p>15 A. I don't really recall. I believe that sometimes it</p> <p>16 would and sometimes it wouldn't. I don't remember a hundred</p> <p>17 percent.</p> <p>18 Q. And if I understand correctly, basically someone</p> <p>19 was checking to see that the stock was folded and the things</p> <p>20 were put away where they belonged, fair statement?</p> <p>21 A. No. Not stock but merchandise on the floor.</p> <p>22 Q. So part of your responsibility at the end of the</p> <p>23 day was to make sure that the merchandise that was on the</p> <p>24 floor was put in its proper place and suitably dressed on</p> <p>25 the table and the like?</p>	<p>1 where people would take rest breaks during the course of the</p> <p>2 day?</p> <p>3 A. I don't know if other people would, but I did, so</p> <p>4 yes.</p> <p>5 Q. And then you -- prior to going to the back door,</p> <p>6 would you notify someone that you were ready to go so that</p> <p>7 they could be prepared to check you out? How would you</p> <p>8 then, when you got to the back door, let someone know that,</p> <p>9 hey, I'm ready to go home?</p> <p>10 A. Well, first of all they would know you're leaving</p> <p>11 the floor because they're excusing you.</p> <p>12 Q. Okay.</p> <p>13 A. So that's one way. And on occasion, not very</p> <p>14 often, but on occasion there would be a manager back there.</p> <p>15 But more oftentimes than not you would have to call for a</p> <p>16 manager to come to the back door to let you out.</p> <p>17 MR. FEDER: Bill, there may have been an ambiguity</p> <p>18 on the record. When you were asking her about the</p> <p>19 procedures she used to check out the register. I think</p> <p>20 there were two registers, and I'm not -- she would use her</p> <p>21 register, and then occasionally I guess she would clock out</p> <p>22 on Theresa Cruz's register?</p> <p>23 MR. GOINES: Right.</p> <p>24 MR. FEDER: I'm not sure the procedures are the</p> <p>25 same, but I think you might have lumped those in together.</p>
Page 57	Page 59
<p>1 A. I would say that would be fair, yeah.</p> <p>2 Q. And then the next step would be to go to a register</p> <p>3 to clock out?</p> <p>4 A. Correct.</p> <p>5 Q. And you said about half the time the register where</p> <p>6 I normally clock out would be closed, and I would need to go</p> <p>7 to Theresa Cruz's -- would it be her office or work area to</p> <p>8 clock out?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And explain to me processwise what would you</p> <p>11 do? Would you enter your employee code number, or how would</p> <p>12 you do that?</p> <p>13 A. Yes. I would enter in my employee code number,</p> <p>14 which is another thing I had a problem with, and then press</p> <p>15 enter or return or whatever it was so --</p> <p>16 Q. And that would clock you out?</p> <p>17 A. Uh-huh.</p> <p>18 MR. FEDER: Yes?</p> <p>19 Q. BY MR. GOINES: Is that a yes?</p> <p>20 A. Yes, yes. I'm sorry, yes.</p> <p>21 Q. And you would gather your things. Did you have an</p> <p>22 employee coffee room or lunch area or locker area where you</p> <p>23 normally kept your personal effects for the day?</p> <p>24 A. Yes.</p> <p>25 Q. Was that also -- was there a break room in there</p>	<p>1 I just want to make sure there's a clear record.</p> <p>2 THE WITNESS: Oh, you're right actually. Sorry.</p> <p>3 Q. BY MR. GOINES: So what was it -- what were the</p> <p>4 differences between the register --</p> <p>5 A. Okay.</p> <p>6 Q. I take it that about half the time you would clock</p> <p>7 out on the register where you would ring up sales?</p> <p>8 A. Correct.</p> <p>9 Q. And you explained to me you would enter an employee</p> <p>10 code and some process that would say I'm leaving for the</p> <p>11 day?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. In Ms. Cruz's office, how did that work on</p> <p>14 her computer?</p> <p>15 A. Okay. So going back to the same 50 percent of the</p> <p>16 time it was on the register that I would ring up sales on or</p> <p>17 not, and then the other half of the time it would be on</p> <p>18 Theresa Cruz's computer.</p> <p>19 Q. Okay.</p> <p>20 A. Generally, when the store was still open, it would</p> <p>21 be on the computer that you were ringing up sales on.</p> <p>22 Q. Right.</p> <p>23 A. After the store had closed -- actually, I think I</p> <p>24 said a little about this, but after the store had closed if</p> <p>25 you were on a closing shift, they would lock out the</p>
Page 58	Page 60

15 (Pages 57 to 60)

<p>1 register that you would be clocking out on, so you could 2 only clock out on one register computer -- computer and 3 register. It's the same. They're synonymous. 4 Q. I'm using those as synonyms as well. 5 A. Okay. Great. So then I would go back to her 6 computer and clock out. That would generally be -- well, 7 we're talking about clocking out. Yeah. So that would 8 generally be when the store had already been closed and the 9 doors were locked, and there were no more customers in the 10 store. 11 Q. And then you would go to the back. Was there only 12 one exit where employees such as yourself could depart at 13 the end of your shift? 14 A. Yeah, yes. 15 Q. And that was at the rear of the store? 16 A. I don't know if it was at the rear. It's not at 17 the rear of the store. It's more like in the basement of 18 the store. 19 Q. And if someone was there, they would go take a look 20 at your bag and good evening, see you tomorrow? 21 A. Relatively, yeah. They would look in your bag, 22 make sure you didn't have anything that was not -- you know, 23 they would make sure that there were no Polo property in 24 your purse that didn't have a receipt for it. They would 25 put a key in the door or in the wall. I think it was in the</p>	<p>1 this? 2 Q. Right. 3 A. No. It's all mental. 4 Q. Okay. So bearing on your recollection of how -- 5 what I'm trying to find is a quantification of the number of 6 days where you had to wait longer than a moment or two and 7 then -- well, let me stop there. 8 A. Sure. 9 Q. Okay. How many -- can you quantify the number of 10 occasions where you had to wait for a manager to be 11 contacted to arrive at the exit door and be checked out? 12 A. Now we're only talking about checking out at night; 13 is that correct? 14 Q. Yes, ma'am, yes. 15 A. That's it? 16 Q. Yeah. 17 A. I would probably say to my best recollection 18 probably three times a week out of five. 19 Q. Okay. 20 A. That I would have to wait any -- in an upwards of a 21 half an hour. 22 Q. And when you say three times a week wait upwards to 23 a half an hour, was it always a half hour? Was it sometimes 24 five minutes? I'm trying to get some recollection of how 25 long this would take.</p>
<p>Page 61</p> <p>1 wall. Maybe it was in the door. I don't remember. And 2 then they would let you out so the alarm wouldn't go off. 3 Q. And then you indicated there were -- I don't want 4 to put words in your mouth, nor do I want to mischaracterize 5 what you said, but there were occasions where you had to 6 call for a manager to allow you to be -- to allow the loss 7 prevention search to take place and then depart? 8 A. Correct. 9 Q. Okay. And I think you indicated kind of putting 10 two and two together that on occasion, I don't want -- I 11 want you to quantify it if you can. 12 A. Okay. 13 Q. I had to -- it took a long time to get a manager to 14 come, and I missed appointments, missed trains, and the 15 like, correct? 16 A. That is correct. 17 Q. Okay. So you worked at the company from the latter 18 part of June to the latter part of October. Are you able to 19 tell me did you keep any record of the days where it was 20 longer than a moment or two for you to check out of the 21 store, a moment or two meaning a manager was there within 22 close proximity as opposed to when you specifically had to 23 call for a manager to come to the door to allow you to be 24 exited? 25 A. So you're asking if I have any written record of</p> <p>Page 62</p>	<p>Page 63</p> <p>1 A. It would take anywhere -- my best guess -- and this 2 is just wait time, not when a manager is standing right 3 there; is that correct? 4 Q. Right. 5 A. Anywhere probably from ten minutes to a half an 6 hour. 7 Q. And this would happen -- ten minutes to a half hour 8 would happen three times a week checking out? 9 A. Very regularly, yes. That's my definition of 10 happening regularly, at least three times a week checking 11 out. 12 Q. You seem to want to make sure we're talking about 13 checking out. Were there other occasions where you had to 14 wait to either check in or check out? 15 A. Oh, yeah. 16 Q. Okay. Explain those to me, please, so I can 17 inquire about those. 18 A. Okay. So when you had to check in at a certain -- 19 let's just say when you're starting your shift in the 20 morning, this is -- actually, whenever you're starting your 21 shift, now that I -- whenever you would start your shift, 22 you would have to ring the doorbell to be let in. And if 23 there was not a manager down in the area waiting or 24 listening to a bell or on their lunch break or what have 25 you, you would be waiting outside to come in to check in to</p> <p>Page 64</p>

Golden Gate Reporting

<p>1 basis?</p> <p>2 A. Not to my knowledge.</p> <p>3 Q. The next page has the title Sales Reports.</p> <p>4 It indicates:</p> <p>5 In order to ensure that your net sales</p> <p>6 amount is accurate all commission eligible</p> <p>7 employees will be provided with a weekly summary</p> <p>8 report.</p> <p>9 Were sales associates provided with some</p> <p>10 type of a weekly summary report setting out their</p> <p>11 net sales?</p> <p>12 A. I believe so. I believe there was</p> <p>13 something that was available every week.</p> <p>14 Q. Was it posted?</p> <p>15 A. That's what I have a recollection of it</p> <p>16 being posted as opposed to being handed to them</p> <p>17 individually or something.</p> <p>18 Q. I'll take that back from you. Thank you.</p> <p>19 I'm going to show you a document that we</p> <p>20 previously marked as Exhibit 5.</p> <p>21 It's some selected pages from a document</p> <p>22 entitled Polo Ralph Lauren Retail Employee</p> <p>23 Handbook 2002-Volume 2.</p> <p>24 These are selected pages from a larger</p> <p>25 handbook, and my first question is whether you</p>	<p>1 A. There were variations.</p> <p>2 Sometimes people would be allowed to leave</p> <p>3 for a brief period empty handed through the main</p> <p>4 entry for a break to go get a soft drink or</p> <p>5 something, bring it back to the store, whatever.</p> <p>6 Q. And were sales associates at the end of</p> <p>7 the day when the store was closed, were they</p> <p>8 entitled or permitted to leave without being</p> <p>9 checked out by a manager?</p> <p>10 A. I don't believe so.</p> <p>11 Q. Take that back as well.</p> <p>12 Let me show you a document that we</p> <p>13 previously marked as Exhibit 10. It's a two-page</p> <p>14 document Bates number 430 and 431. It's entitled</p> <p>15 Special FY05 Addendum. Take a moment and look at</p> <p>16 this, and I'd like to ask if you've seen it before</p> <p>17 today.</p> <p>18 A. I don't recall seeing this particular</p> <p>19 document.</p> <p>20 Q. Are you aware of any document that was</p> <p>21 provided to sales associates while you worked at</p> <p>22 Polo that laid out in written form how the arrears</p> <p>23 program operated?</p> <p>24 A. Not to my recollection. I don't remember</p> <p>25 ever seeing anything as clearly stating the</p>
Page 70	Page 72
<p>1 recall seeing this handbook or a similar handbook</p> <p>2 during the course of your employment at Polo?</p> <p>3 A. I believe I saw something like this, yes.</p> <p>4 Q. This document, this handbook had an</p> <p>5 acknowledgment signature page that went with it.</p> <p>6 Do you recall whether sales associates in</p> <p>7 your department had signed the document indicating</p> <p>8 that they understood and would abide by these</p> <p>9 policies?</p> <p>10 A. I don't recall.</p> <p>11 Q. On page 25 it's Bates number 531. There's</p> <p>12 a right-hand column General Security. Do you see</p> <p>13 that?</p> <p>14 A. Um-hmm.</p> <p>15 Q. The third bullet point refers to bag</p> <p>16 checks.</p> <p>17 Were all sales associates required to have</p> <p>18 bag checks or loss prevention inspections</p> <p>19 performed every time they left the building?</p> <p>20 A. Every time they left the building.</p> <p>21 If they had a bag. If they had anything</p> <p>22 that they were carrying.</p> <p>23 Q. And if they didn't have anything to carry,</p> <p>24 were they still required to be let out by a</p> <p>25 manager after some type of an inspection?</p>	<p>1 arrears program as this.</p> <p>2 Q. Thank you.</p> <p>3 A. Doesn't mean it didn't exist. I just may</p> <p>4 not have seen it.</p> <p>5 Q. Let me show you a document that we</p> <p>6 previously marked as Exhibit 23.</p> <p>7 It's an untitled document Bates numbered</p> <p>8 303, and this document may have been prepared just</p> <p>9 for this litigation. I'm not sure that you would</p> <p>10 have seen it before. If you have seen it before,</p> <p>11 let me know. If you haven't seen it before, my</p> <p>12 question is whether you were provided with a form</p> <p>13 that had similar categories showing the amount of</p> <p>14 arrears that a person was in.</p> <p>15 A. I don't remember seeing anything in this</p> <p>16 format.</p> <p>17 Q. The information that you indicated that</p> <p>18 you recall receiving about employees in arrears,</p> <p>19 was that a report that covered all stores in</p> <p>20 California or was it specific to your store in San</p> <p>21 Francisco?</p> <p>22 A. If you're referring to the one that you</p> <p>23 could see on the Internet or whatever that was</p> <p>24 called, that was I believe all stores.</p> <p>25 Q. Throughout the United States?</p>
Page 71	Page 73

19 (Pages 70 to 73)

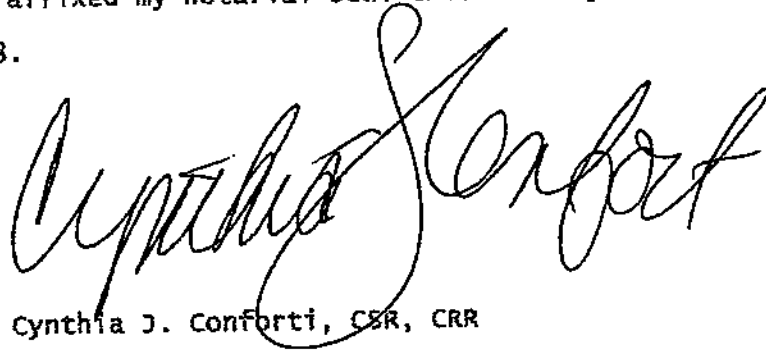
certcert

1 I further certify that the signature to the
2 foregoing deposition was not waived by counsel for
3 the respective parties.

4 I further certify that the taking of this
5 deposition was pursuant to subpoena, and that
6 there were present at the deposition the attorneys
7 hereinbefore mentioned.

8 I further certify that I am not counsel for
9 nor in any way related to the parties to this
10 suit, nor am I in any way interested in the
11 outcome thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set my
13 hand and affixed my notarial seal this 7th day of
14 May, 2008.

15
16
17
18
19 

20 Cynthia J. Conforti, CSR, CRR
21 Notary Public, Cook County, Illinois

22 CSR License No. 084-003064
23
24
25

EXHIBIT 20.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual,
et al.,

CERTIFIED COPY

Plaintiffs,

vs.

No. C-07-02780-SI

POLO RALPH LAUREN CORPORATION,
et al.,

Defendants.

Videotaped Deposition of

JANIS KEEFE

Monday, March 17, 2008

Reported by:
IRIS MEINKE-SMITH, RMR/CRR
CSR No. 3798
Job No. 18235LR



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1 A. No. I mostly voiced my frustrations to Tin
2 and to Theresa.

3 MR. GOINES: I would like to take a
4 three-minute break and go off record for a minute,
01:53:38 5 please.

6 THE VIDEOGRAPHER: This marks the end of
7 tape number two in the deposition of Janis Keefe.
8 Going off the record. The time is 1:53 p.m.

9 (Recess taken.)

01:59:02 10 THE VIDEOGRAPHER: Back on the record.

11 Here marks the beginning of tape number
12 three in the deposition of Janis Keefe. The time is

13 1:59 p.m.

14 Q. BY MR. GOINES: Janis, with regard to the
01:59:14 15 loss prevention searches, was it your understanding
16 that unless you participated in the loss prevention
17 search, your employment could be terminated?

18 A. No, I don't remember that. But...

19 Q. Did you feel that it was part of your job to
01:59:35 20 participate in a loss prevention search?

21 A. Yes.

22 Q. Were you instructed that you could -- strike
23 that.

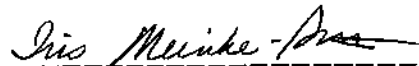
24 Was it your understanding that the only exit
01:59:46 25 that you could utilize as a Polo Ralph Lauren

REPORTER'S CERTIFICATE

I certify that the foregoing proceedings in the within-entitled cause were reported at the time and place therein named; that said proceedings were reported by me, a duly Certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and were thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said cause of action, nor in any way interested in the outcome of the cause named in said cause of action.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of April, 2008.



IRIS MEINKE-SMITH, CA CSR No.3798
Registered Merit Reporter
Certified Realtime Reporter

EXHIBIT 21.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF VALERIE ANN HARRISON
25

DATE: August 10, 2007

TIME: 10:08 a.m.

LOCATION: 120 Kearny Street
Suite 3200
San Francisco, California

REPORTED BY: Mary E. Garland
Certified Shorthand Reporter
License Number 4721

Page 1

<p>1 that. I mean, now that I read that, I obviously know, 2 so. 3 Q. So just have to look at -- I don't have my 4 calendar here, which would tell us if that's 2006. I 5 believe it is. So that would have been about a year 6 ago. Does that time frame make sense as to when you 7 had the meeting with the other managers and Tin when he 8 indicated that the arrears program was being 9 discontinued? 10 A. Again, I don't know time. I can't recall 11 timelines, as far as that goes. 12 Q. Does it seem to you like it was as long as 13 almost two and a half years ago, or does it seem more 14 recent than that? 15 A. As far as discontinuing it? 16 Q. Yes. When you were informed that it was going 17 to be discontinued. 18 A. Again, I don't recall when we were exactly 19 informed and the lag time in between that was actually 20 discontinued. I mean, I can estimate -- I would 21 estimate from the beginning of a year or two ago is when 22 I would have guessed the whole arrears thing ended. 23 Q. And after the arrears program was terminated, 24 did you ever have a discussion with anyone from Polo 25 about the arrears program, after it was terminated?</p>	<p>1 that were working under your direction in the Home 2 Collection department were ever paid premium overtime 3 compensation? 4 A. I wouldn't know, because I didn't deal with 5 payroll on that level, unless somebody would have come 6 to me with a check saying -- asking me a question about 7 and showing me and telling me, which did not happen. 8 Q. Throughout the time that you worked for Polo, 9 you don't recall an associate ever coming to you and 10 asking you, raising an issue relating to the payment or 11 nonpayment of premium overtime compensation? 12 A. Are we talking in 2006, 2007 again? 13 Q. I'm talking anytime when you worked there, 14 whether any sales associate ever talked to you about 15 whether they were entitled to premium overtime 16 compensation. 17 A. Yes. Corinne did ask once about it. And I 18 referred her to either Kristi or Theresa, Kristi Mogel 19 or Theresa. 20 Q. Did you provide Corinne any information on that 21 issue? 22 A. No. I referred her to those two people, 23 because they would know best. 24 Q. Did you tell Corinne that she should be careful 25 with her paycheck because sometimes mistakes are made in</p>
<p style="text-align: right;">Page 122</p>	<p style="text-align: right;">Page 124</p>
<p>1 A. Not that I can recall. 2 Q. The second page of Exhibit 13 -- it's Polo 435, 3 "Fiscal 2007 Compensation Update" -- there's a reference 4 to "base plus commission," and it refers to several 5 stores, and the only one in California is Burlingame. 6 You see that? "Coinciding with the start of fiscal 7 2007, we would like to offer a 'base plus' commission 8 option for several of our stores. These stores are 9 Dallas NorthPark, Texas "West Village, San Antonio, 10 Burlingame, Chicago-Northbrook and Minneapolis." 11 Do you remember any discussion or was there 12 any discussion that you heard at Polo San Francisco 13 regarding a base plus commission system? 14 A. I don't recall that that was ever discussed for 15 San Francisco. 16 Q. Do you recall any discussions in the 2006, 17 2007 time frame at Polo regarding whether Polo sales 18 associates were entitled to premium overtime 19 compensation under any circumstances? 20 A. I don't know. 21 Q. You didn't hear any conversations relating to 22 that issue? 23 A. No. 24 Q. We're now in a fairly recent time period, 2006, 25 2007. Do you know whether any of the sales associates</p>	<p>1 a paycheck? 2 A. Be careful with her paycheck? 3 Q. Well, to carefully review her paycheck, because 4 there are mistakes that are made on the paychecks at 5 Polo? 6 A. I don't remember specifically saying that, but 7 I may have told her that she should definitely always 8 take a look at her paychecks. 9 Q. Other than Corinne Phipps, or Mullen at the 10 time, there were no other sales associates who ever 11 spoke with you about the payment of premium overtime 12 compensation? 13 A. Recently or in the past. The past, I couldn't 14 recall. I know for certain recently, no. 15 Q. We've talked a lot about the loss prevention 16 inspections that were taking place back in 2001, 2002. 17 Now I want to focus on the rest of the time period that 18 you were serving as manager of Home Collections. 19 As far as you know, during the period from 20 2002, forward, until you quit, were all sales associates 21 and managers required to undergo loss prevention 22 inspections before they left the store? 23 A. Yes. 24 Q. And at some point in time, I take it the time 25 card system that was back by Theresa Cruz's office was</p>
<p style="text-align: right;">Page 123</p>	<p style="text-align: right;">Page 125</p>

CERTIFICATION OF DEPOSITION OFFICER

I, MARY E. GARLAND, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, do hereby certify that the witness in the foregoing deposition was duly sworn by me to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of said witness was thereafter transcribed by means of computer-aided transcription under my direction; that the foregoing is a full, complete and true record of said testimony; and that the witness was given an opportunity to read and correct said deposition and to subscribe to the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, nor in any way interested in the outcome of the cause named in said caption.

Executed August 15, 2007, at San Francisco,
California.



MARY E. GARLAND, CSR 4721

EXHIBIT 22.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 ANN OTSUKA, an individual;)
5 et al.,)
6 Plaintiffs,)
7 vs.) No. C-07-02780-SI.
8 POLO RALPH LAUREN)
9 CORPORATION, a Delaware)
Corporation; et al.,)
10 Defendants.)
11 _____)

12 DEPOSITION OF: TIN HUA
13 TAKEN ON: Friday, March 21, 2008

14
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19
20 REPORTED BY:

21
22
23
24 PATRICIA L. HUBBARD

25 CSR #3400, CRP #10, RPR #7847

Page 1

Golden Gate Reporting

<p>1 Q. And how does that work? What's the 2 process? 3 A. Okay. You're going to have to be a lot 4 more specific. 5 Q. Sure. If somebody brings back a sweater 6 that I sold, how is it debited from the amount of 7 money that I have during the period you were at the 8 Palo Alto store? 9 A. When you sell an item, the receipt is 10 generated with your name and employee's number on 11 there. When it's returned accompanied by a receipt, 12 it's returned towards the name that's on the receipt 13 and the sale's associate's number on there. 14 Q. So for my next paycheck that's going to 15 be deducted, assuming that I have enough commission 16 income to deduct from; is that correct? 17 A. Yes, I'm familiar with that, yes. 18 Q. Is that the same sort of thing that 19 would apply at both Palo Alto and San Francisco 20 during your tenure? 21 A. That's correct. 22 Q. And then if I've quit, then there's 23 nothing you can do to get it back from me, right? 24 A. I'm not sure. 25 Q. All right. Let's go on to the next</p> <p style="text-align: right;">Page 66</p>	<p>1 "Such inspections are a condition 2 of employment." 3 In other words, bag inspections at the 4 time an employee exits is a condition of employment? 5 Is that your understanding of the policy 6 in effect during the time -- during your tenure? 7 A. I understand that is the policy in place 8 concerning the employee must have their bags checked 9 prior to leaving the premises. 10 Q. What happens if they decline? What 11 would have happened? Do you know? 12 MR. GOINES: Objection. Calls for 13 speculation. 14 THE WITNESS: I don't know. That hadn't 15 happened. 16 BY MR. GRIGG: 17 Q. What would you have done if I were your 18 sales associate and I said, "You know, I just don't 19 have time to wait. I'm going to walk out. See you 20 later"? 21 A. We probably would allow it to happen and 22 invite them to have a conversation the next time they 23 come back to work. 24 Q. Were employees told what would happen 25 ever to your knowledge if they didn't comply with the</p> <p style="text-align: right;">Page 68</p>
<p>1 portion, where it says "General Security" and the 2 third bulleted item. It says, 3 "Bag checks must be performed 4 anytime an employee leaves the 5 store." 6 And that's the policy I think, as you've 7 said before, that was in effect during all of your 8 time with Polo Ralph Lauren, correct? 9 A. Yes. 10 Q. And any employee, that's managers, as 11 well, right? 12 A. That's including managers. 13 Q. And it says, 14 "It is each individual's 15 responsibility to notify a 16 manager when leaving the store 17 with a bag, box or other item 18 used to carry merchandise." 19 And again that's a policy that's been in 20 effect during your entire tenure with Polo Ralph 21 Lauren Corporation, correct? 22 A. Yes. 23 Q. And then on page 26 under "Bag 24 Inspection," it sort of reiterates that, doesn't it? 25 And at the bottom of that it says,</p> <p style="text-align: right;">Page 67</p>	<p>1 loss inspection prevention searches? 2 A. I'm aware that they were told that they 3 are in violation of the policy, yes. 4 Q. Were they ever told anything else, to 5 your knowledge, about what would happen if they 6 didn't comply with the loss inspection prevention 7 searches? 8 A. No, not to my knowledge. 9 Q. All right. And then turning to 10 Exhibit 24, do you recognize that? 11 A. Which one? This one (indicating)? 12 Q. Yes. I'm sorry. 13 A. I don't. 14 Q. Refresh my recollection, when did you 15 leave Polo? 16 A. I believe it was the beginning of March 17 or the end of February. 18 Q. Well, just glancing at page 23 of that 19 document, it says, "Meal Periods and Breaks." 20 A. What page? 21 Q. 23. 22 A. 23. 23 Q. It's Bates number in the lower 24 right-hand corner 001524. 25 A. Okay.</p> <p style="text-align: right;">Page 69</p>

18 (Pages 66 to 69)

1 REPORTER'S CERTIFICATE

2

3 I, PATRICIA L. HUBBARD, do hereby

4 certify:

5

6 That I am a duly qualified Certified

7 Shorthand Reporter in and for the State of

8 California, holder of Certificate Number 3400, which

9 is in full force and effect, and that I am authorized
10 to administer oaths and affirmations;

11

12 That the foregoing deposition testimony

13 ~~of the herein named witness, to wit, TIN HUA, was~~

14 taken before me at the time and place herein set

15 forth;

16

17 That prior to being examined, TIN HUA

18 was duly sworn or affirmed by me to testify the

19 truth, the whole truth, and nothing but the truth;

20

21 That the testimony of the witness and

22 all objections made at the time of examination were

23 recorded stenographically by me and were thereafter

24 transcribed by me or under my direction and

25 supervision;

Page 180

1 That the foregoing pages contain a full,
2 true and accurate record of the proceedings and
3 testimony to the best of my skill and ability;
4

5 I further certify that I am not a
6 relative or employee or attorney or counsel of any of
7 the parties, nor am I a relative or employee of such
8 attorney or counsel, nor am I financially interested
9 in the outcome of this action.
10

11 IN WITNESS WHEREOF, I have subscribed my
12 name this 25th day of March, 2008.

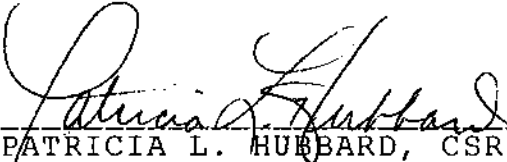
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15 
16 PATRICIA L. HUBBARD, CSR #3400
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EXHIBIT 23.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;
19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF PHOEBE MIRELES
25

DATE: November 15, 2007

TIME: 10:15 a.m.

LOCATION: One Montgomery Street
Suite 3220
San Francisco, California

REPORTED BY: Mary E. Garland
Certified Shorthand Reporter
License Number 4721

Page 1

<p>1 A. No, I don't recall that, either.</p> <p>2 Q. When you underwent the orientation or training</p> <p>3 at Stanford, were you provided with any employee</p> <p>4 handbooks?</p> <p>5 A. Yes. Yes, I was.</p> <p>6 Q. And do you recall whether you received copies</p> <p>7 of more than one employee handbook at that time?</p> <p>8 A. No.</p> <p>9 Q. You don't recall?</p> <p>10 A. No, we didn't receive more than one.</p> <p>11 Q. At that time, was there two separate handbooks,</p> <p>12 one entitled "Polo Employee Handbook" and the other</p> <p>13 referencing employee retail commission?</p> <p>14 A. No, not that I can recall.</p> <p>15 Q. I'll show you some documents in a little while,</p> <p>16 maybe that --</p> <p>17 A. All right.</p> <p>18 Q. The employee manual that you received at that</p> <p>19 time, in April of 2002, was that the same manual that</p> <p>20 was being used in Hawaii?</p> <p>21 A. I don't recall.</p> <p>22 Q. At that time -- again, in around April of 2002</p> <p>23 -- were you provided any kind of manager manual that</p> <p>24 dealt specifically with duties as a manager at Polo in</p> <p>25 California?</p> <p>Page 22</p>	<p>1 basically. So that's for lunches, breaks, and the time</p> <p>2 you leave.</p> <p>3 Q. Could any manager at the store perform a loss</p> <p>4 prevention inspection for exiting employees?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall at that time how many managers</p> <p>7 were working within the Stanford store?</p> <p>8 A. At which time?</p> <p>9 Q. This, again, is in April of 2002 time frame.</p> <p>10 A. There was myself, an operations manager. So I</p> <p>11 was the Women's manager, an operations manager. The</p> <p>12 general manager. There was a Men's manager. I can't</p> <p>13 recall if there was a Home Collection manager at the</p> <p>14 time. So, basically, there was -- one, two, three, four</p> <p>15 -- four managers.</p> <p>16 Q. Was there a shipping manager?</p> <p>17 A. No.</p> <p>18 Q. At that time, April of 2002, that time period,</p> <p>19 did the Stanford Polo store have a full-time loss</p> <p>20 prevention or security guard?</p> <p>21 A. No.</p> <p>22 Q. At anytime during your employment at the</p> <p>23 Stanford Polo store, was there a full-time loss</p> <p>24 prevention specialist or person in the store?</p> <p>25 A. There was a regional, but she wasn't there all</p> <p>Page 24</p>
<p>1 A. There wasn't a manager manual, but it was a job</p> <p>2 description.</p> <p>3 Q. Was that a multiple-page document, or do you</p> <p>4 recall?</p> <p>5 A. Possibly. Maybe two or three pages.</p> <p>6 Q. Did any of the items referenced in that</p> <p>7 document refer to the compensation system applied in</p> <p>8 California at that time?</p> <p>9 A. Not that I can recall.</p> <p>10 Q. In April of 2002, when you began at Stanford</p> <p>11 and were going through this brief orientation or</p> <p>12 training period, did you receive any information from</p> <p>13 anyone at the Polo store regarding loss prevention</p> <p>14 inspections or bag check procedures that were in place</p> <p>15 at the Stanford store?</p> <p>16 A. Not that I can recall. Nothing was on paper.</p> <p>17 There was no literature. It was more of a verbal</p> <p>18 policy, that I can recall, when I first started.</p> <p>19 Q. And do you recall the specifics of that policy</p> <p>20 that was expressed verbally to you?</p> <p>21 A. Yes. It's anytime you leave the store, you</p> <p>22 are to ask a manager to check you out. They can't</p> <p>23 physically put their hands through your bag or your</p> <p>24 personal belongings, but you have to show them</p> <p>25 everything that you have or -- and are walking out with,</p> <p>Page 23</p>	<p>1 the time. It was very rare that she was there.</p> <p>2 Q. What was her name?</p> <p>3 A. Her name was Alison Gunder.</p> <p>4 Q. At anytime during your employment at the</p> <p>5 Stanford Polo, did you meet with Alison Gunder to</p> <p>6 discuss loss prevention searches of employees as they</p> <p>7 exited the building?</p> <p>8 A. No. We never did training on loss prevention</p> <p>9 searches at all.</p> <p>10 Q. How many exit doors are there in the Stanford</p> <p>11 Polo store?</p> <p>12 A. There are two.</p> <p>13 Q. And can you describe their location?</p> <p>14 A. Sure. We have an atrium, and there's an</p> <p>15 entrance/exit to the parking lot or an entrance/exit</p> <p>16 into the mall area.</p> <p>17 Q. So there's -- I'm not sure how the atrium fits</p> <p>18 into this. Where is the door related to the atrium?</p> <p>19 A. So the store is situated, it's such there's</p> <p>20 departments on either side of the atrium, and the doors</p> <p>21 connect directly through the atrium. So there's two</p> <p>22 exits.</p> <p>23 Q. One of them goes to the parking lot and one of</p> <p>24 them goes --</p> <p>25 A. Into the mall area.</p> <p>Page 25</p>

7 (Pages 22 to 25)

1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed November 26, 2007, at San Francisco,
22 California.

23 
24 MARY E. GARLAND, CSR 4721
25

EXHIBIT 24.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

-----X

ANN OTSUKA, an Individual; JANIS
KEEFE, an individual, CORINNE PHIPPS,
an individual, and JUSTIN KISER,
an individual, individually and
on behalf of all others similarly
situated,

Plaintiffs.

v.

No. C-07-02780-SI

POLO RALPH LAUREN CORPORATION,
a Delaware Corporation, POLO
RETAIL, LLC, a Delaware Corporation,
POLO RALPH LAUREN CORPORATION, a
Delaware Corporation doing business
in California as POLO RETAIL CORP.,
FASHIONS OUTLET OF AMERICA, INC., a
Delaware Corporation, and DOES -500,
inclusive,

Defendants.

-----X

December 6, 2007
New York, New York
Time: 10:26 a.m.
Volume 1, Pages 130

Deposition of SHARONDA WEATHERSPOON, taken on behalf
of the Plaintiffs, at Greenberg Traurig, Met Life Building,
200 Park Avenue, New York, New York, commencing at 10:26
a.m., December 6, 2007, before Anthony Armstrong, a Notary
Public and Certified Shorthand Reporter of the State of New
York.

Page 1

1 normally to transmit. But in terms of -- for the
 2 associate -- I mean for the managers, their process is
 3 very simple.
 4 Q. Can you give me any kind of rough estimate for
 5 the time it takes to transmit that data from the
 6 briefest time to the busiest and highest-volume store
 7 time?
 8 A. I'm not sure what the estimate would be
 9 because it really does vary and normally it happens
 10 during the overnight process when that information is
 11 transmitted.
 12 Q. Does one of the managers on duty do the
 13 transmittal process?
 14 A. Yes.
 15 MR. KITCHIN: Why don't we take a break?
 16 (There was a recess.)
 17 *****
 18 BY MR. KITCHIN:
 19 Q. We're back on the record. You understand you
 20 are still under oath?
 21 A. Yes.
 22 Q. If a sales associate forgets to clock out at
 23 the end of his or her shift, can an adjustment be made
 24 to the time records to show that they actually left at
 25 5:00 in the afternoon and -- so that corresponds to

Page 58

1 there needs to be a matching set of punches. You can
 2 go in and modify it the next day, but you will not be
 3 able to close the system down unless all punches are
 4 accounted for.
 5 Q. So in one scenario, if a manager is closing
 6 down the system for the night and sees -- is notified
 7 somehow or alerted that one sales associate didn't
 8 punch out at the end of the day, that manager would
 9 enter in the time that they believe the person left so
 10 that they could close the system down?
 11 A. Yes.
 12 Q. And then if that manager approached the
 13 associate the next day and said, You forgot to clock
 14 out, so I clocked you out at 5 o'clock, and the
 15 individual said, I actually left at 4:30, the manager
 16 could then go in and make that adjustment back to 4:30?
 17 A. Yes.
 18 Q. Or make an adjustment if they stayed later
 19 than that to 6 o'clock?
 20 A. Yes.
 21 Q. And that modification, you believe, would be
 22 memorialized in some kind of a record that would show
 23 that a manager had made a modification at some point in
 24 time?
 25 A. Well, I'm not sure how it would actually be

Page 60

1 when they are actually working?
 2 A. Yes.
 3 Q. Who has the authority to make changes to the
 4 records?
 5 A. All managers.
 6 Q. Can a sales associate make any changes to his
 7 or her time records?
 8 A. No.
 9 Q. The adjustments to time records, under a
 10 situation where a person forgets to clock out at the
 11 end of their shift, are those adjustments compiled and
 12 kept in some form, electric or paper form?
 13 A. The adjustments on the store end, you can
 14 actually -- you do actually see the adjustment, but I'm
 15 not sure specifically where they are kept.
 16 Q. So at the store level you could print out
 17 information showing -- under the example I gave you,
 18 that that person had clocked in in the morning, clocked
 19 out for lunch, clocked back in after lunch, and failed
 20 to clock in -- the next day, comes in and the manager
 21 was told that, I forgot to clock out last night, the
 22 manager could go in and clock the person out from the
 23 previous day showing they had left at 5 o'clock, for
 24 example; is that correct?
 25 A. No. Because in order to close out the system,

Page 59

1 recorded. I know on the store end it's actually
 2 denoted on the time card by an asterisk that shows that
 3 the time card has been modified.
 4 Q. And this applies to the new system that --
 5 relatively new system that uses the point of sale cash
 6 registers to clock in and out?
 7 A. Yes.
 8 Q. At this point in time, are managers required
 9 to fill out any kind of a form in order to make a
 10 modification to a time record?
 11 A. No.
 12 Q. Do you know if managers have ever been
 13 required to fill out any kind of separate form prior to
 14 making -- prior or subsequent to making an adjustment
 15 to an employee's time record?
 16 A. I am not aware.
 17 Q. Are you aware of what managers typically tell
 18 new sales associates about loss prevention inspections
 19 or bag checks?
 20 A. I would say that we have guidelines. Do I
 21 know specifically that that is absolutely the
 22 information that's being communicated in every single
 23 store? I can't say that for certainty.
 24 Q. When you say guidelines, what are you
 25 referring to?

Page 61

16 (Pages 58 to 61)

<p>1 A. As far as bag check inspections.</p> <p>2 Q. And what are those guidelines?</p> <p>3 A. That the bag checks should normally be</p> <p>4 conducted at the front door, and that anyone exiting</p> <p>5 the building needs to ensure that they do -- any</p> <p>6 associate or employee needs to have their bag -- their</p> <p>7 bags or belongings checked. And managers are not able</p> <p>8 to put their hands inside of anyone's bag if they are</p> <p>9 not able to -- they are not able to see to the bottom.</p> <p>10 They do have to ask the employee to remove some of the</p> <p>11 items or just move them around so that way they can see</p> <p>12 to the bottom.</p> <p>13 Q. Who is permitted to conduct bag checks?</p> <p>14 A. Managers and supervisors. Are you talking</p> <p>15 about currently right now?</p> <p>16 Q. Right now.</p> <p>17 A. Managers and supervisors.</p> <p>18 Q. Is there a category of employee called</p> <p>19 supervisors?</p> <p>20 A. Yes.</p> <p>21 Q. And tell me what that category is.</p> <p>22 A. What do you mean by category?</p> <p>23 Q. Well, you have managers, you have assistant</p> <p>24 managers. And then is there another category of people</p> <p>25 called supervisors?</p>	<p>1 store is open?</p> <p>2 A. No.</p> <p>3 Q. Do they have more limited coverage than other</p> <p>4 employees? Are they part-time, full-time?</p> <p>5 MR. CAPOBIANCO: Objection to form.</p> <p>6 MR. KITCHIN: Let me re-ask the question.</p> <p>7 BY MR. KITCHIN:</p> <p>8 Q. So it sounds like most of your stores in</p> <p>9 California have employees that are called supervisors;</p> <p>10 is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you have described what their duties are.</p> <p>13 And they have the authority to conduct bag checks?</p> <p>14 A. Yes.</p> <p>15 Q. Does the number of managers, including general</p> <p>16 managers and assistant managers, working at any one</p> <p>17 time within a store vary store to store?</p> <p>18 A. Yes.</p> <p>19 Q. So there is -- how many assistant managers do</p> <p>20 you have in your largest or most busy store?</p> <p>21 A. Four.</p> <p>22 Q. And which store is that?</p> <p>23 A. Cabazon.</p> <p>24 Q. The Cabazon factory outlet with four managers,</p> <p>25 are all four of those managers on-duty every single</p>
<p>Page 62</p> <p>1 A. Yes.</p> <p>2 Q. What do supervisors do?</p> <p>3 A. Supervisors are responsible for helping and</p> <p>4 assisting to manage the sales floor and the stock</p> <p>5 process.</p> <p>6 Q. The stock process?</p> <p>7 A. Yes, the process by which we process shipment.</p> <p>8 Q. Are supervisors salaried employees?</p> <p>9 A. No.</p> <p>10 Q. Are they sales associates who have been given</p> <p>11 extra duties?</p> <p>12 A. They are hourly employees.</p> <p>13 Q. Are they hired as a supervisor?</p> <p>14 A. Yes.</p> <p>15 Q. And what -- how many supervisors -- do all</p> <p>16 factory outlet stores in California have employees who</p> <p>17 are hired as supervisors?</p> <p>18 A. No.</p> <p>19 Q. Do you know how many stores in California have</p> <p>20 supervisors within their employment?</p> <p>21 A. The only stores that would not have</p> <p>22 supervisors are any of our children's outlet stores or</p> <p>23 our luxury outlet stores, do not have supervisors.</p> <p>24 Q. Is a supervisor always -- is one or more</p> <p>25 supervisors always on duty during the time that the</p> <p>Page 63</p>	<p>Page 64</p> <p>1 day?</p> <p>2 A. No.</p> <p>3 Q. Is there staffing at the Cabazon store where</p> <p>4 there is a specific number of managers, including the</p> <p>5 general manager, who need to be on duty during a</p> <p>6 specific day?</p> <p>7 A. There are always at least two managers</p> <p>8 scheduled on any particular day.</p> <p>9 Q. That's true at the Cabazon store?</p> <p>10 A. Yes.</p> <p>11 Q. Is it true at all the other stores?</p> <p>12 A. Yes.</p> <p>13 Q. So in any day, because it's -- the stores are</p> <p>14 typically open more than eight hours; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. So any particular day there, generally, at</p> <p>17 least two managers would have worked during that day?</p> <p>18 A. Yes.</p> <p>19 Q. Managers' schedules sometimes overlap?</p> <p>20 A. Yes.</p> <p>21 Q. Are they -- is generally one of the managers,</p> <p>22 kind of, an opening manager and one a closing manager?</p> <p>23 A. Generally.</p> <p>24 Q. So generally at the end of the store's day, is</p> <p>25 there generally one manager on duty at that time?</p> <p>Page 65</p>

1 to grab a sandwich, are they permitted to go out
 2 through the emergency door?
 3 A. No.
 4 Q. If they want to go home at the end of the
 5 night, are they permitted to go through that emergency
 6 door?
 7 A. No.
 8 Q. Can sales associates -- ask a foundational
 9 question.
 10 Do some of the California factory outlet stores
 11 have more than one customer entrance and exit?
 12 A. To my knowledge, yes.
 13 Q. So can sales associates come in after lunch
 14 through any of the customer entrances?
 15 A. Can you repeat that?
 16 Q. Yeah. If a sales associate goes on their
 17 lunch break and goes outside to get something to eat,
 18 can they come back in through any door except for the
 19 emergency door?
 20 A. Are you speaking about specifically when the
 21 store is open to customers?
 22 Q. Yes.
 23 A. Yes.
 24 Q. Is there any -- of the factory outlet stores,
 25 does that have specifically designated employee exit or

Page 70

1 entrance?
 2 A. Normally, if there is more than one entrance
 3 into the store, they will designate one to be used as
 4 an employee -- as an employee entrance. But that
 5 normally only applies to if people are taking their
 6 breaks during the time that the store is not open to
 7 the public.
 8 Q. Okay. So if an associate wants to go outside
 9 for any reason after the store is closed to the public
 10 and the customers are all gone, some of the stores may
 11 designate one of two or more doors to be the one that
 12 they need to exit out of?
 13 A. During the time that the store is open to the
 14 public?
 15 Q. No, when it's closed to public. I thought you
 16 said when the store is closed to public, some of the
 17 stores will specify a specific employee exit?
 18 A. Yes.
 19 Q. So if an employee wants to leave when a store
 20 is closed, or is outside wants to come back in after
 21 the store is closed, in those situations, there maybe
 22 one door that's designated for them to go to?
 23 A. Yes.
 24 Q. If an employee doesn't have any kind of bag,
 25 summertime, just wearing the Polo shirt perhaps and

Page 71

1 jeans or whatever they're wearing, do they still have
 2 to go through what we have called a bag inspection?
 3 A. At that point they wouldn't have a bag. What
 4 they would need to have is the manager walk them to the
 5 door.
 6 Q. We know from testimony from this morning that
 7 some sales associates will leave at the end of their
 8 shift before the store is closed to the public,
 9 correct?
 10 A. Yes.
 11 Q. I want you to, if you know, describe to me at
 12 this point in time the process they would go through
 13 typically to -- from the time they realize it's time
 14 for me to go home to the time that they are out of the
 15 store.
 16 A. I would say that the process probably varies
 17 from store to store. But typically, normally, what
 18 happens is that the associate would let the manager
 19 know that they are about to clock out and the manager
 20 would actually walk them -- once they have actually
 21 clocked out, walk them to the store to conduct the bag
 22 inspection.
 23 Q. How do you know that?
 24 A. From -- based on my experience and based on my
 25 observation, I can say that typically that's what

Page 72

1 happens in every situation. I can't say that's what
 2 happens 100 percent but I can say that's normally what
 3 the process looks like.
 4 Q. You have observed that?
 5 A. I have observed that not in the California
 6 store but I have observed that in other stores that I
 7 have actually worked in or that I visited.
 8 Q. But you don't know from your observations
 9 whether that process has happened a single time in
 10 California, is that correct, based on your
 11 observations?
 12 A. Well, I have only visited one of the stores in
 13 California. So based on -- and I can't recall
 14 specifically if I actually observed the bag checks
 15 specifically in California during that time.
 16 MR. KITCHIN: Could I have the question
 17 read back to the witness, please?
 18 (The record was read.)
 19 MR. KITCHIN: That's the question that I'm
 20 asking.
 21 THE WITNESS: Can you repeat it one more
 22 time?
 23 (The record was read.)
 24 A. No, I don't know.
 25 BY MR. KITCHIN:

Page 73

<p>1 Q. Has anyone, other than perhaps Polo's counsel, 2 ever described that process happening in a factory 3 outlet store in California? 4 A. I'm not sure I understand that question. 5 Q. Has anyone -- I don't want you to disclose any 6 information you have received from Polo's attorneys 7 regarding the process that you described, the clocking 8 out, the managers, all of that. So my question is, has 9 anyone ever described that that is the way the process 10 works in any store in California? 11 A. No, no one has ever described that that's the 12 way that the process works. 13 Q. Do you know how the process has ever worked 14 for bag inspections in California based on your 15 observations or information you have received from 16 anyone other than Polo's counsel? 17 A. Not specific to California. 18 Q. Have you had any discussions with anyone, 19 other than perhaps Polo's counsel, regarding the time 20 period between when a sales associate has clocked out 21 and the time that they have undergone a loss prevention 22 inspection in California factory outlet stores? 23 A. No. 24 Q. Have you heard anyone in management at Polo 25 ever express any concerns about the time it takes from</p>	<p>1 in the Polo employee handbook between or among the 2 factory outlet stores in California? 3 A. Can you repeat that? 4 MR. KITCHIN: Would you read that back, 5 please? 6 (The record was read.) 7 A. I'm not sure I understand the question. 8 BY MR. KITCHIN: 9 Q. I'll break it down. The Polo employee 10 handbook provides or describes some rules and 11 procedures and policies of Polo Ralph Lauren 12 Corporation that are to be applied to workers in 13 California; is that correct? 14 A. Yes. 15 Q. And those policies include matters such as 16 loss prevention inspections or bag checks; is that 17 true? 18 A. Yes. 19 Q. They include other things such as rest breaks 20 and meal breaks and guidelines for providing those to 21 employees, correct? 22 A. Yes. 23 Q. Includes a lot of other things including 24 benefits, descriptions of benefits provided. 25 Are you aware of any variations based on your</p>
Page 74	Page 76
<p>1 the point when a sales associate clocks out to the time 2 a bag inspection is done? 3 A. No. 4 Q. Are you aware of any complaints, other than 5 the complaints in this case, by any sales associate in 6 California about the time it takes to have a bag 7 inspection performed? 8 A. I am not aware of any. 9 Q. Are you personally aware of any lawsuits, 10 other than this lawsuit, filed against Polo or factory 11 outlets of America by any associate -- sales associate 12 from a factory outlet store over missed, rest, or meal 13 breaks? 14 A. Can you repeat that? 15 Q. Other than this lawsuit, are you aware of any 16 other lawsuits against Polo brought by factory outlet 17 employees for missing meal or rest breaks? 18 A. No. 19 Q. Other than this lawsuit, are you aware of any 20 civil complaints or labor commission complaints against 21 Polo for unpaid wages relating to lost prevention 22 inspections? 23 A. No. 24 Q. Are you personally aware of any variation in 25 the application of the procedures and policies set out</p>	<p>1 personal knowledge in the application of any of those 2 policies or procedures in California's factory outlet 3 stores? 4 A. No. Anywhere that there is a variation in the 5 handbook, and it is specific to California such as with 6 the -- no rest breaks. It is normally denoted in the 7 handbook from my -- the best of my knowledge. 8 Q. I'm going to show you what was previously 9 marked as Exhibit 11. It's Polo Ralph Lauren 10 simulation handbook, 2005. 11 I'm not certain, but I believe this may be just 12 a portion of the handbook. 13 Have you seen this before today? 14 A. No. This currently isn't used in our outlet. 15 Q. Okay. I'll take that back. 16 A. In the outlet division. 17 Q. Was it used at sometime, to your knowledge? 18 A. Not to my knowledge. 19 Q. I'm going to show you what was previously 20 marked 11 in this case. 21 MR. CAPOBIANCO: You mean 14. 22 MR. KITCHIN: Oh, 14. 23 BY MR. KITCHIN: 24 Q. Are you familiar with this Polo Ralph Lauren 25 employee/new hire loss prevention overview?</p>
Page 75	Page 77

20 (Pages 74 to 77)

Golden Gate Reporting

<p>1 A. Yes.</p> <p>2 Q. Is this loss prevention overview booklet used</p> <p>3 in the factory outlet stores?</p> <p>4 A. Yes.</p> <p>5 Q. Is it currently used in the factory outlet</p> <p>6 stores?</p> <p>7 A. To my knowledge, yes.</p> <p>8 Q. Is this the document you had referred to</p> <p>9 earlier as something that is provided to sales</p> <p>10 associates when they are hired?</p> <p>11 A. Yes.</p> <p>12 Q. And based on your knowledge, including</p> <p>13 discussions with other Polo employees, are you aware of</p> <p>14 any systematic variation in the application of the</p> <p>15 procedures and policies set out in this manual?</p> <p>16 A. I'm not aware of any variations.</p> <p>17 Q. Okay. I'm going to show you an exhibit that</p> <p>18 was previously marked as No. 18.</p> <p>19 Q. This exhibit is produced in this litigation --</p> <p>20 I know it's hard to read. It's very small text.</p> <p>21 And it refers to just several individuals who</p> <p>22 are named plaintiffs in this case. We have been told</p> <p>23 that it documents clock in/clock out time for employees</p> <p>24 in these specific instances.</p> <p>25 Have you ever seen a form similar to this that</p>	<p>1 stores can actually access in the store, which does not</p> <p>2 give you -- it does not give you every one. It just</p> <p>3 gives you an individual person.</p> <p>4 Q. So is that -- to your knowledge, to access</p> <p>5 that type of data, you would need to access that data</p> <p>6 at the store location?</p> <p>7 A. Yes.</p> <p>8 Q. You know that to be the case or are you</p> <p>9 guessing that that is the case?</p> <p>10 A. Well, what I have actually experienced is that</p> <p>11 you -- I have had to personally access that in my</p> <p>12 experience with the company at the store. I have</p> <p>13 not -- I have not personally accessed any of this type</p> <p>14 of data in this format in my current role.</p> <p>15 Q. So you don't know whether the data could be</p> <p>16 accessed in one location or if it needs to be accessed</p> <p>17 at each store location. Would that be a true</p> <p>18 statement?</p> <p>19 A. Yes, I don't know.</p> <p>20 Q. I'm going to show you what was previously</p> <p>21 marked as Exhibit 19. This payroll manual adjustments</p> <p>22 report concerns some of the named plaintiffs who worked</p> <p>23 at the full price stores in California.</p> <p>24 I doubt whether you have seen this specific</p> <p>25 adjustments report. I'm using it as an example. My</p>
<p>Page 78</p>	<p>Page 80</p>
<p>1 shows clock in/clock out time for employees of the</p> <p>2 factory outlet stores?</p> <p>3 A. Not similar to this one.</p> <p>4 Q. Okay. Have you seen a form that shows clock</p> <p>5 in/clock out times for sales associates in the factory</p> <p>6 outlet stores?</p> <p>7 A. Yes.</p> <p>8 Q. And was that one of the documents that you</p> <p>9 reviewed in preparation for your testimony today?</p> <p>10 A. No.</p> <p>11 Q. No. So to your knowledge, there is some type</p> <p>12 of form that or data that can be accessed for the</p> <p>13 factory outlet stores that show clock in/clock out time</p> <p>14 for specific sales associates; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Would you know how long that data is</p> <p>17 maintained?</p> <p>18 A. I don't.</p> <p>19 Q. You have seen actual printouts of clock</p> <p>20 in/clock out time for factory outlet sales associates;</p> <p>21 is that true?</p> <p>22 A. What time period would you be talking about?</p> <p>23 Q. Just ever.</p> <p>24 A. I have never seen a document like this. The</p> <p>25 document that I have actually seen is the one that the</p>	<p>1 question is -- my question is specifically this: Have</p> <p>2 you ever, at any time, seen a document that showed</p> <p>3 adjustments to time records for factory outlet store</p> <p>4 employees?</p> <p>5 A. Yes.</p> <p>6 Q. Is it in similar format as this, if you know?</p> <p>7 A. Based on the document that I had seen a while</p> <p>8 ago, I think the format was similar.</p> <p>9 Q. Did you review any role manual adjustments</p> <p>10 report in preparation for your deposition today?</p> <p>11 A. No.</p> <p>12 Q. When did you review a report that was similar</p> <p>13 to this Exhibit 19?</p> <p>14 A. It was during the time that I was a general</p> <p>15 manager in Flemington, New Jersey.</p> <p>16 Q. Have you ever seen any kind of similar report</p> <p>17 for factory outlet employees in California?</p> <p>18 A. No.</p> <p>19 Q. Do you know whether there are such reports</p> <p>20 available for factory outlet employees in California?</p> <p>21 A. I'm not certain.</p> <p>22 Q. That begs the question, do you believe, based</p> <p>23 on something that you have heard or know about, that</p> <p>24 there are similar reports for California employees?</p> <p>25 A. I'm not certain. I have never seen one</p>
<p>Page 79</p>	<p>Page 81</p>

21 (Pages 78 to 81)

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C E R T I F I C A T E

I, Anthony Armstrong, a Certified
Shorthand Reporter and Notary Public within
and for the State of New York, do hereby
certify:

That SHARONDA WEATHERSPOON, the witness
whose testimony is hereinbefore set forth, was
duly sworn by me and that such testimony is a
true record of the testimony given by such
witness.

I further certify that I am not related
to any of the parties by blood or marriage,
and that I am in no way interested in the
outcome of this matter.

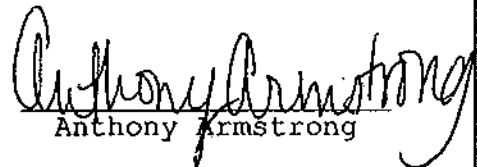

Anthony Armstrong

EXHIBIT 25.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,
12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
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DEPOSITION OF KRISTI MOGEL

1 DATE: February 4, 2008

2 TIME: 10:06 a.m.

3 LOCATION: Greenberg Traurig
4 1900 University Avenue
5 Fifth Floor
6 East Palo Alto, California

7 REPORTED BY: Mary E. Garland
8 Certified Shorthand Reporter
9 License Number 4721

Page 1

Golden Gate Reporting

<p>1 Kenneth Cole Productions, and that is the law of</p> <p>2 California.</p> <p>3 MR. GOINES: The law of California requires the</p> <p>4 employer to make the breaks available.</p> <p>5 Q. BY MR. KITCHIN: Have you ever heard from any</p> <p>6 source, other than counsel, what California law's</p> <p>7 requirement is as to the compensation of employees who</p> <p>8 have missed rest breaks?</p> <p>9 A. No.</p> <p>10 Q. Let me take back that document.</p> <p>11 A. The older one?</p> <p>12 Q. Yes. This is Exhibit 8, we were looking at.</p> <p>13 Are you aware of a retail employee handbook</p> <p>14 dated 2004?</p> <p>15 A. In general? There maybe a couple versions out</p> <p>16 there, so.</p> <p>17 Q. Okay.</p> <p>18 A. It seems as if there are.</p> <p>19 Q. So do you have a specific recollection as to</p> <p>20 whether any employee handbook, other than the 2007</p> <p>21 handbook, states that it is the manager's responsibility</p> <p>22 to ensure that appropriate breaks are taken?</p> <p>23 A. Again, I wouldn't be able to speak to where</p> <p>24 it's written. I just will tell you it's certainly part</p> <p>25 of our culture. So I don't know. I don't think -- I've</p>	<p>1 A. Yes.</p> <p>2 Q. Have you performed any loss prevention searches</p> <p>3 in the La Jolla store?</p> <p>4 A. Yes.</p> <p>5 Q. Have you performed loss prevention inspections</p> <p>6 in the South Coast Plaza store?</p> <p>7 A. No.</p> <p>8 Q. Have you performed loss prevention inspections</p> <p>9 in the Beverly Hills store?</p> <p>10 A. Yes.</p> <p>11 Q. Have you performed loss prevention inspections</p> <p>12 in any of the Malibu stores?</p> <p>13 A. No.</p> <p>14 Q. Have you performed loss prevention inspections</p> <p>15 in the Palm Desert store?</p> <p>16 A. No.</p> <p>17 Q. Have you performed any loss prevention</p> <p>18 inspections in either of the Rugby stores?</p> <p>19 A. No.</p> <p>20 Q. Do any of the stores that I've just mentioned</p> <p>21 have security personnel who are currently assigned to</p> <p>22 perform loss prevention inspections?</p> <p>23 A. Assigned to the store?</p> <p>24 Q. Yes.</p> <p>25 MR. GOINES: Are you talking about independent</p>
Page 150	Page 152
<p>1 never been presented with any questions around that.</p> <p>2 Q. Since you began working for Polo in 2003, has</p> <p>3 it been the policy of Polo Ralph Lauren to conduct loss</p> <p>4 prevention searches of every employee before they leave</p> <p>5 the store?</p> <p>6 A. Yes.</p> <p>7 Q. And has it been the policy to conduct those</p> <p>8 searches both when an employee is leaving at the end of</p> <p>9 their shift and anytime that they're leaving during the</p> <p>10 course of their shift?</p> <p>11 A. Yes.</p> <p>12 Q. That includes management-level personnel?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever performed a loss prevention or</p> <p>15 bag check inspection?</p> <p>16 A. Yes.</p> <p>17 Q. On many, many occasions?</p> <p>18 A. Anytime I'm available and I can help out.</p> <p>19 Q. And have you performed loss prevention</p> <p>20 inspections in the San Francisco store?</p> <p>21 A. Yes.</p> <p>22 Q. And have you performed any loss prevention</p> <p>23 inspections in the Burlingame store?</p> <p>24 A. Yes.</p> <p>25 Q. The Palo Alto store?</p>	<p>1 of -- that's their sole function?</p> <p>2 Q. BY MR. KITCHIN: Well, they can have many</p> <p>3 functions, but one of their functions being the</p> <p>4 performance of loss prevention inspections.</p> <p>5 A. There is an asset protection staff in the</p> <p>6 Beverly Hills store.</p> <p>7 Q. And is that the only store in which loss</p> <p>8 prevention or asset protection personnel works?</p> <p>9 A. Where they're designated to that store? Yes.</p> <p>10 Q. And is that person, as part of his or her</p> <p>11 responsibility -- or those persons -- permitted to</p> <p>12 perform loss prevention inspections on employees leaving</p> <p>13 the Beverly Hills store?</p> <p>14 A. Yes.</p> <p>15 Q. Do managers in Beverly Hills, on occasion, also</p> <p>16 perform loss prevention searches?</p> <p>17 A. Yes.</p> <p>18 Q. Is the asset protection personnel assigned to</p> <p>19 the Beverly Hills store there throughout the time that</p> <p>20 sales associates are working within the store?</p> <p>21 A. As in "there," do you mean are they scheduled?</p> <p>22 Q. Yes.</p> <p>23 A. Yes.</p> <p>24 Q. So how many days a week is the Beverly Hills</p> <p>25 store open?</p>
Page 151	Page 153

39 (Pages 150 to 153)

1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed February 12, 2008, at San Francisco,
22 California.

23 
24 MARY E. GARLAND, CSR 4721
25

EXHIBIT 26.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;
6 JANIS KEEFE, an individual;
7 CORINNE PHIPPS, an individual;
8 and JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

Case No. c-07-02780-SI

12 and

13 POLO RALPH LAUREN CORPORATION,
14 a Delaware corporation; POLO
15 RETAIL, LLC, a Delaware corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 ~~Delaware corporation, doing~~
18 business in California as POLO
19 RETAIL CORP; FASHIONS OUTLET OF
20 AMERICA, INC., a Delaware
21 corporation; and DOES 1-500,
22 inclusive,

23 Defendants.
24 _____/

25 DEPOSITION OF THERESA CRUZ

DATE: August 20, 2007

TIME: 10:00 a.m.

LOCATION: LAW OFFICE OF PATRICK R. KITCHIN
565 Commercial Street
Fourth Floor
San Francisco, California 94111

REPORTED BY: Katy Leonard
Certified Shorthand Reporter
License Number 11599

Page 1

Golden Gate Reporting

<p>1 involvement, if you have an involvement in the process, 2 of hiring a new sales associate at Polo San Francisco. 3 Are you involved in the interviewing process 4 for sales associates? 5 A. No. 6 Q. Are you involved in the decision-making as 7 to which sales associates to hire? 8 A. No. 9 Q. Are you involved in helping to set up a 10 hired sales associate into the payroll system? 11 A. Yes. 12 Q. And do you have any assistants that work for 13 you? 14 A. No. 15 Q. So, you do all this on your own? 16 A. Yes. 17 Q. And, so, do you work with the corporate 18 office to set up someone in the payroll system? 19 A. No. I can go to the workstation and do 20 that. 21 Q. Okay. 22 A. It's called the "Lawson." 23 Q. L-a-w-s-o-n? 24 A. That's correct. 25 Q. And, so, you enter in specific information</p> <p style="text-align: right;">Page 46</p>	<p>1 who will go on a leave of absence. We use that form for 2 termination, also. And other changes. Let's say if we 3 terminate the person, if there's any changes on their -- 4 where to mail the final paycheck. 5 Q. Okay. What other tasks are you involved 6 with in bringing in a new sales associate into the Polo 7 San Francisco store? 8 A. Um, just training with the Tradewind. I do 9 the walk-through with the new hire. 10 Q. And the walk-through involves what? 11 A. Walk-through in the store only. 12 Q. So, you show them around? 13 A. Yes. 14 Q. Do you have any involvement in providing 15 them training related to loss prevention? 16 A. Um, no. 17 Q. When you're doing your walk-through, do you 18 show them where the employee exit is? 19 A. Yes. 20 Q. And do you describe to them the process that 21 they're required to go through in order to leave the 22 store? 23 A. Yes. 24 Q. And what specifically do you tell them about 25 leaving the store?</p> <p style="text-align: right;">Page 48</p>
<p>1 about the employee to set them up as a user of the 2 Lawson system? 3 A. Yes. 4 Q. And how does the Lawson system differ from 5 the Tradewind system? 6 A. The Lawson is for new-hire employees. After 7 you have put in all the information, it will give you 8 the employee number -- it will assign an employee 9 number. 10 Q. What involvement do you have, in addition to 11 having a new sales associate set up through the Lawson 12 system, to assist a new sales associate to get into the 13 system and start working at Polo? 14 A. I prepare the new hire -- the new-hire 15 paperwork for them. 16 Q. What is included in the new-hire paperwork? 17 A. The PAF. 18 Q. What is a PAF? 19 A. Personal Authorization Form. 20 Q. And what does that Personal Authorization 21 Form relate to? 22 A. Um, you fill in the Social Security number, 23 the information of the employee, if she will be hired 24 full-time, part-time, or temporary, and how many hours. 25 And it also pertained -- we use that form for someone</p> <p style="text-align: right;">Page 47</p>	<p>1 A. Leaving the store? They need to call a 2 department manager to check them out. 3 Q. And is it -- are you authorized to let 4 people out the exit? 5 A. Yes. 6 Q. Is Tin -- or, was he authorized to let 7 people out the exit? 8 A. Yes. 9 Q. All department managers had the ability to 10 let people out of the exit? 11 A. Yes. 12 Q. Anyone else, other than the general manager, 13 you, and the department managers, who had the ability to 14 let people out the employee exit? 15 A. Um, all the department managers. 16 Q. Do all department managers have keys to turn 17 off the alarm at the back exit? 18 A. Yes. 19 Q. And the key that they have also gives them 20 access from the outside; is that correct? 21 A. Yes. 22 Q. And the door coming into the store through 23 the -- the employee exit, that's locked from the 24 outside? 25 A. Yes.</p> <p style="text-align: right;">Page 49</p>

13 (Pages 46 to 49)

<p>1 Q. But it's not locked from the inside; is that</p> <p>2 correct?</p> <p>3 A. No.</p> <p>4 Q. Is it always alarmed?</p> <p>5 A. Yes.</p> <p>6 Q. So, if you -- so, an employee could open the</p> <p>7 employee exit and leave physically to do that; is that</p> <p>8 correct?</p> <p>9 A. By not letting -- check her out?</p> <p>10 Q. Yeah. Let me rephrase the question.</p> <p>11 An employee -- a sales associate could leave</p> <p>12 through the back exit at any time they wanted to, except</p> <p>13 that an alarm would sound if they did that without the</p> <p>14 key being turned?</p> <p>15 A. Turned, yes.</p> <p>16 Q. Okay. Do you give sales associates, during</p> <p>17 the walk-through, any information as to the consequences</p> <p>18 of leaving the store without being checked out?</p> <p>19 A. Yes.</p> <p>20 Q. What do you tell the sales associates?</p> <p>21 A. It is a policy of the company, working in</p> <p>22 retail, that anybody who leaves at the back door will</p> <p>23 have to be checked out. And if they have their bags</p> <p>24 with them, we have to check their bags also.</p> <p>25 Q. Okay. So, if an employee doesn't have bags,</p>	<p>1 lunch been in effect?</p> <p>2 A. Um, at that time, it was for a while.</p> <p>3 Q. More than a year?</p> <p>4 A. More than -- more than two years.</p> <p>5 Q. Was that policy in effect when Justin Kiser</p> <p>6 was working at Polo?</p> <p>7 A. That's correct.</p> <p>8 Q. Was that policy in place to use the home</p> <p>9 collections door to return from lunch in effect when</p> <p>10 Janis Keefe worked for Polo?</p> <p>11 A. Yes.</p> <p>12 Q. And the same question with Corinne Phipps?</p> <p>13 A. Yes.</p> <p>14 Q. So, they left, I believe, in 2004.</p> <p>15 Do you believe that this policy has been in</p> <p>16 effect since at least 2004?</p> <p>17 A. Oh, yes.</p> <p>18 Q. And did you do -- strike that.</p> <p>19 On your walk-through with associates, you</p> <p>20 tell them that in order to leave the store, they need to</p> <p>21 have a manager do a loss-prevention inspection; correct?</p> <p>22 A. Yes.</p> <p>23 Q. And are they required to do that at any time</p> <p>24 during the day they wish to leave the building?</p> <p>25 A. Yes.</p>
Page 50	Page 52
<p>1 they still need to go through the loss-prevention</p> <p>2 inspection at the back door; is that correct?</p> <p>3 A. Just to be checked out by a manager. Just</p> <p>4 to make sure that the key is not turned the other way so</p> <p>5 that the alarm will not go off.</p> <p>6 Q. Are employees permitted -- strike that.</p> <p>7 Are sales associates permitted to use any</p> <p>8 other doors within the facility on a regular basis?</p> <p>9 A. Yes.</p> <p>10 Q. And what other doors can they use?</p> <p>11 A. Home collection entrance door.</p> <p>12 Q. And all sales associates can use the home</p> <p>13 collections door?</p> <p>14 A. That is correct.</p> <p>15 Q. At any time?</p> <p>16 A. No.</p> <p>17 Q. At what time?</p> <p>18 A. Only if they're coming back from their</p> <p>19 lunch.</p> <p>20 Q. And does that apply to all sales associates</p> <p>21 who are currently working at the Polo store in</p> <p>22 San Francisco?</p> <p>23 A. Yes.</p> <p>24 Q. And how long has that specific policy about</p> <p>25 coming back in through the home collections door after</p>	<p>1 Q. Do you explain to them whether there are any</p> <p>2 consequences for failing to go through a loss-prevention</p> <p>3 inspection as required under Polo's policy?</p> <p>4 A. No.</p> <p>5 Q. Is there any policy in place in Polo</p> <p>6 regarding what consequences would happen if a sales</p> <p>7 associate exited the building without undergoing a</p> <p>8 loss-prevention inspection?</p> <p>9 A. That will be a -- yes.</p> <p>10 Q. What is the policy?</p> <p>11 A. The policy is -- that will be -- I will have</p> <p>12 to tell my GM that the person had exited the other</p> <p>13 entrances than what is permitted to us.</p> <p>14 Q. Have you ever had to inform your general</p> <p>15 manager that someone had left the store without going</p> <p>16 through a loss-prevention inspection?</p> <p>17 A. Um, no.</p> <p>18 Q. Have you ever heard of any employee who has</p> <p>19 left the building without going through a</p> <p>20 loss-prevention inspection?</p> <p>21 A. No.</p> <p>22 Q. Are managers required to go through</p> <p>23 loss-prevention inspections as well?</p> <p>24 A. Absolutely.</p> <p>25 Q. And are managers required to -- except for</p>
Page 51	Page 53

14 (Pages 50 to 53)

1 CERTIFICATION OF DEPOSITION OFFICER

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I, KATY LEONARD, duly authorized to

administer oaths pursuant to Section 2093(b) of the

California Code of Civil Procedure, hereby certify that

the witness in the foregoing deposition was by me sworn

to testify to the truth, the whole truth and nothing but

the truth in the within-entitled cause; that said

deposition was taken at the time and place therein

stated; that the testimony of the said witness was

thereafter transcribed by means of computer-aided

transcription; that the foregoing is a full, complete

and true record of said testimony; and that the witness

was given an opportunity to read and correct said

deposition and to subscribe the same.

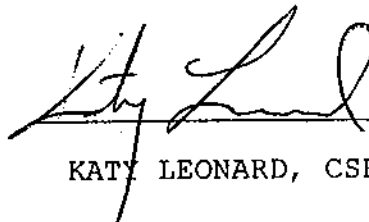
I further certify that I am not of counsel

or attorney for either or any of the parties in the

foregoing deposition and caption named, or in any way

interested in the outcome of this cause named in said

caption.


KATY LEONARD, CSR 11599

Page 261

EXHIBIT 27.

Golden Gate Reporting

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual; JANIS KEEFE, an individual; CORINNE PHIPPS, an individual; and JUSTIN KISER, an individual; individually and on behalf of all others similarly situated,

No. C-07-02780-SI

Plaintiffs,

vs.

POLO RALPH LAUREN CORPORATION; a Delaware Corporation; POLO RETAIL, LLC, a Delaware Corporation; POLO RALPH LAUREN CORPORATION, a Delaware Corporation, doing business in California as POLO RETAIL CORP;

FASHIONS OUTLET OF AMERICA, INC., a Delaware Corporation and DOES 1-500, inclusive,

Defendants.

DEPOSITION OF VALERIE ANN HARRISON

DATE: August 10, 2007

TIME: 10:08 a.m.

LOCATION: 120 Kearny Street
Suite 3200
San Francisco, California

REPORTED BY: Mary E. Garland
Certified Shorthand Reporter
License Number 4721

Page 1

<p>1 topics you were being trained in?</p> <p>2 A. There were videos and there was the handbook.</p> <p>3 Q. And do you recall specifically which videos you</p> <p>4 were shown?</p> <p>5 A. It's so long, I don't recall. I'm sorry. I</p> <p>6 know that there's a series.</p> <p>7 Q. During this initial part of your employment at</p> <p>8 Polo, did Cynthia or Todd alert you to any kind of hot</p> <p>9 button issues for you to be specifically careful about</p> <p>10 while working at Polo?</p> <p>11 A. Not that I recall.</p> <p>12 Q. As part of that training, did you receive any</p> <p>13 information about loss prevention inspections of</p> <p>14 employees?</p> <p>15 A. That we were supposed to, obviously, do them</p> <p>16 before we left, each person left, managers were supposed</p> <p>17 to do that; and that we were supposed to check bags and</p> <p>18 purchases.</p> <p>19 Q. Were you instructed that employees were</p> <p>20 required to use any specific exit in the building?</p> <p>21 A. Yes. We were supposed to use the back exit</p> <p>22 that goes down the back hallway.</p> <p>23 Q. And were you told that employees were</p> <p>24 prohibited from using either -- well, take it one at a</p> <p>25 time -- using the Home Collections door?</p> <p style="text-align: right;">Page 26</p>	<p>1 Q. And so anyone who was in management level at</p> <p>2 the Polo store could inspect your bags when you exited</p> <p>3 the building?</p> <p>4 A. That's correct.</p> <p>5 Q. With respect to sales associates, were you</p> <p>6 instructed as to who would be permitted to conduct bag</p> <p>7 inspections of them before leaving the building?</p> <p>8 A. It was the same, management.</p> <p>9 Q. Were you instructed that sales associates were</p> <p>10 required to have bag inspections done at anytime they</p> <p>11 left the building?</p> <p>12 A. Yes.</p> <p>13 Q. The back exit, did you refer to that as the</p> <p>14 employee exit? Is there --</p> <p>15 A. I can't recall specifically.</p> <p>16 Q. I'm trying get the terms down.</p> <p>17 So if I refer to it as the back exit, you'll</p> <p>18 know what I'm talking about?</p> <p>19 A. The back door.</p> <p>20 Q. The back door? Okay.</p> <p>21 Was the back door physically locked during</p> <p>22 store hours?</p> <p>23 A. From the outside.</p> <p>24 Q. From the outside. So you could open the door</p> <p>25 from the inside?</p> <p style="text-align: right;">Page 28</p>
<p>1 A. Yes.</p> <p>2 Q. And were you instructed that employees were not</p> <p>3 permitted to enter or exit through the main doors to the</p> <p>4 store?</p> <p>5 A. Yes.</p> <p>6 Q. And were you instructed that there were any</p> <p>7 consequences that would be imposed on employees who</p> <p>8 violated the prohibition in using those two exits?</p> <p>9 A. I believe that the person would be written up,</p> <p>10 was the policy.</p> <p>11 Q. Were you instructed that you were required to</p> <p>12 undergo loss prevention inspections prior to exiting the</p> <p>13 building?</p> <p>14 A. Yes.</p> <p>15 Q. And did those loss prevention inspections take</p> <p>16 place whether it was leaving for lunch or leaving at the</p> <p>17 end of the day?</p> <p>18 A. Yes.</p> <p>19 Q. If you wanted to go out and get a coffee</p> <p>20 outside of the building, were you required personally to</p> <p>21 undergo a loss prevention inspection?</p> <p>22 A. Yes.</p> <p>23 Q. And who was permitted to conduct those</p> <p>24 inspections of you personally?</p> <p>25 A. A member of management.</p> <p style="text-align: right;">Page 27</p>	<p>1 A. There's an alarm, and you had to have a key in</p> <p>2 order to turn off the alarm. You could push the door,</p> <p>3 it was open, but it would set the alarm off.</p> <p>4 Q. And who had keys to -- strike that.</p> <p>5 The keys that you had, was that to disarm the</p> <p>6 alarm?</p> <p>7 A. Yes. And to get inside the back door.</p> <p>8 Q. So you could enter the back door with your key</p> <p>9 without setting off the alarm?</p> <p>10 A. That's correct.</p> <p>11 Q. Who had keys to the back door, if you know?</p> <p>12 A. All members of management.</p> <p>13 Q. Did any sales associates, that you're aware of,</p> <p>14 have keys to the back door lock?</p> <p>15 A. No.</p> <p>16 Q. You referred to an employee manual that you</p> <p>17 received when you first began at Polo. Was it a single</p> <p>18 employment manual or was there more than one employment</p> <p>19 manual that you were provided?</p> <p>20 A. I believe it was only one.</p> <p>21 Q. Do you remember if there was an employee manual</p> <p>22 that dealt with compensation that was a smaller manual</p> <p>23 than the Polo Ralph Lauren employee handbook?</p> <p>24 A. I don't recall that.</p> <p>25 Q. During your initial training at Polo, were you</p> <p style="text-align: right;">Page 29</p>

CERTIFICATION OF DEPOSITION OFFICER

I, MARY E. GARLAND, duly authorized to administer oaths pursuant to Section 2093(b) of the California Code of Civil Procedure, do hereby certify that the witness in the foregoing deposition was duly sworn by me to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of said witness was thereafter transcribed by means of computer-aided transcription under my direction; that the foregoing is

a full, complete and true record of said testimony; and that the witness was given an opportunity to read and correct said deposition and to subscribe to the same.

I further certify that I am not of counsel or attorney for either or any of the parties in the foregoing deposition and caption named, nor in any way interested in the outcome of the cause named in said caption.

Executed August 15, 2007, at San Francisco,
California.



MARY E. GARLAND, CSR 4721

EXHIBIT 28.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual,
et al.,

CERTIFIED COPY

Plaintiffs,

vs.

No. C-07-02780-SI

POLO RALPH LAUREN CORPORATION,
et al.,

Defendants.

Videotaped Deposition of

JANIS KEEFE

Monday, March 17, 2008

Reported by:
IRIS MEINKE-SMITH, RMR/CRR
CSR No. 3798
Job No. 18235LR



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WWW.PHILLIPSDEPO.COM

1 Theresa went through it briefly and basically kind of
2 said the same thing Tin did. Everyone pretty much
3 said the same thing, you know.

4 Q. Do you recall Kristi or Theresa discussing
11:29:02 5 with you in this process the arrears concept or the
6 arrears program?

7 A. No. That's one thing that I really -- I'm
8 pretty sure that no one really went in detail with
9 it.

11:29:16 10 Q. But if I understand correctly, Tin
11 mentioned --

12 A. Mentioned it, yes.

13 Q. But you don't recall whether Theresa or
14 Kristi mentioned it?

11:29:24 15 A. No.

16 Q. Prior to your actually starting work, do you
17 recall discussing with either Theresa, Tin or Kristi
18 Polo's practice of requiring its sales associates,
19 and actually all its employees, of having a loss
11:29:43 20 prevention search before they departed the store for
21 lunch or at the end of their day?

22 A. Right. That was part of the policies and
23 procedures part.

24 Q. Was this something that you read as opposed
11:29:55 25 to something you were told?

1 A. I think it was something that I found out
2 that day, you know, that I actually started. It
3 wasn't really discussed in that much detail. There
4 was just, you know, loss -- there's loss prevention
11:30:11 5 thing. But it wasn't really like this is what we're
6 going to do type of thing.

7 Q. Do you recall who at Polo explained to you
8 how you would clock in and clock out to both begin
9 and end your shifts?

11:30:23 10 A. Theresa Cruz.

11 Q. And do you recall her explaining the
12 clock-in and clock-out procedure actually on your

13 first day of work or at some time prior to your
14 actually starting work?

11:30:35 15 A. First day of work.

16 Q. Can you tell me what you recall her telling
17 you?

18 A. That you come in to work and you put your
19 things away and then you -- when you're ready to get
11:30:46 20 on the sales floor, you clock in. And then when
21 you're ready to leave, you clock out, basically.

22 Q. Did you understand that you had to clock out
23 when you departed the store for your lunch break?

24 A. Yes.

11:31:00 25 Q. And then you would clock back in when you

REPORTER'S CERTIFICATE

I certify that the foregoing proceedings in the within-entitled cause were reported at the time and place therein named; that said proceedings were reported by me, a duly certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and were thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said cause of action, nor in any way interested in the outcome of the cause named in said cause of action.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of April, 2008.



IRIS MEINKE-SMITH, CA CSR No.3798
Registered Merit Reporter
Certified Realtime Reporter

EXHIBIT 29.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual,
et al.,

CERTIFIED COPY

Plaintiffs,

vs.

No. C-07-02780-SI

POLO RALPH LAUREN CORPORATION,
et al.,

Defendants.

Videotaped Deposition of

RENEE DAVIS

Wednesday, March 19, 2008

Reported by:
IRIS MEINKE-SMITH, RMR/CRR
CSR No. 3798
Job No. 18236LR



PHILLIPS LEGAL SERVICES

SAN FRANCISCO DEPOSITION REPORTERS

795 FOLSOM STREET, FIRST FLOOR
SAN FRANCISCO, CA 94107

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1 And I believe they had some even later than that,
2 but...

3 Q. Would your shift have been one of the 10:00
4 to 7:00, 12:00 to 9:00, 1:00 to 10:00?

10:47:08 5 A. Yes.

6 Q. Okay. Did Fred explain to you that one of
7 the requirements to work in the Cabazon store was
8 that you would need to engage in a loss prevention
9 search when you departed the store, either for a meal
10:47:34 10 break or for -- at the conclusion of your shift?

11 A. Yes.

12 Q. And do you recall what he told you about
13 that?

14 A. Any time you -- any time you leave the
10:47:45 15 store, you have to get a manager or a lead person and
16 be searched before you left.

17 Q. And did you understand the search to be
18 someone physically just look inside a bag or bags
19 that you were carrying?

10:47:58 20 A. Well, actually, they told us that you can't
21 wear your coat to the door because they have to check
22 your coat, as well as any purchases that you made,
23 and a female, obviously a purse.

24 Q. I understand that it's not a -- like a
10:48:14 25 pat-down search, that someone just looked in your

REPORTER'S CERTIFICATE

I certify that the foregoing proceedings in the within-entitled cause were reported at the time and place therein named; that said proceedings were reported by me, a duly certified Shorthand Reporter of the State of California authorized to administer oaths and affirmations, and were thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties to said cause of action, nor in any way interested in the outcome of the cause named in said cause of action.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, 2008.

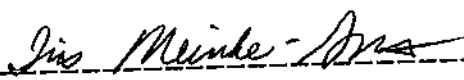

IRIS MEINKE-SMITH, CA CSR No.3798
Registered Merit Reporter
Certified Realtime Reporter

EXHIBIT 30.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;
6 JANIS KEEFE, an individual;
7 CORINNE PHIPPS, an individual;
8 and JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

Case No. c-07-02780-SI

12 and

13 POLO RALPH LAUREN CORPORATION,
14 a Delaware corporation; POLO
15 RETAIL, LLC, a Delaware corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware corporation, doing
18 business in California as POLO
19 RETAIL CORP; FASHIONS OUTLET OF
20 AMERICA, INC., a Delaware
21 corporation; and DOES 1-500,
22 inclusive,

23 Defendants.
24
25

DEPOSITION OF THERESA CRUZ

DATE: August 20, 2007

TIME: 10:00 a.m.

LOCATION: LAW OFFICE OF PATRICK R. KITCHIN
565 Commercial Street
Fourth Floor
San Francisco, California 94111

REPORTED BY: Katy Leonard
Certified Shorthand Reporter
License Number 11599

Page 1

Golden Gate Reporting

<p>1 Certain types of unacceptable behavior</p> <p>2 warrant specific mention.</p> <p>3 And then on this page, 773, there are 13</p> <p>4 items, and on the next page it goes to 27 items.</p> <p>5 Do you remember seeing this specific list of</p> <p>6 unacceptable behavior?</p> <p>7 A. Um, no.</p> <p>8 Q. No.</p> <p>9 Take a look at page 774, if you would. Item</p> <p>10 No. 23 reads, quote:</p> <p>11 Divulging personal salary arrangements</p> <p>12 to other Polo Retail Corporation</p> <p>13 associates, closed quote.</p> <p>14 Was it Polo's policy in San Francisco to</p> <p>15 prohibit sales associates from telling one another how</p> <p>16 much money they were earning?</p> <p>17 A. No.</p> <p>18 Q. And --</p> <p>19 A. I don't think it's -- because every single</p> <p>20 sales associate gets 8 percent commission.</p> <p>21 Q. Did you ever hear -- do you recall seeing</p> <p>22 this specific reference that says, "Divulging personal</p> <p>23 salary arrangements to other Polo Retail Corporation</p> <p>24 associates"?</p> <p>25 A. No.</p> <p style="text-align: right;">Page 138</p>	<p>1 Q. Okay. I'd like you to turn on this exhibit</p> <p>2 to the -- No. 4 to page 777. And I want to have you</p> <p>3 take a look at the third bullet point under "General</p> <p>4 Security" on the right-hand column. It says, quote:</p> <p>5 Bag checks must be performed any time an</p> <p>6 employee leaves the store. It is each</p> <p>7 individual's responsibility to notify a</p> <p>8 manager when leaving the store with a</p> <p>9 bag, box, or any other item used to</p> <p>10 carry merchandise.</p> <p>11 Was that a policy that's been in place</p> <p>12 throughout the time you've worked as operations manager</p> <p>13 at the store?</p> <p>14 A. Yes.</p> <p>15 Q. And isn't it true that it's not only the</p> <p>16 responsibility to notify a manager when leaving the</p> <p>17 store with a bag, box, or other item used to carry</p> <p>18 merchandise, but bag checks or loss-prevention checks</p> <p>19 must be performed any time an employee leaves the store?</p> <p>20 A. Yes.</p> <p>21 Q. I want you to take a look the page 784.</p> <p>22 It's the last page of Exhibit 4. "When You Are Paid."</p> <p>23 It says, quote:</p> <p>24 Employees regularly receive their pay</p> <p>25 biweekly on Fridays.</p> <p style="text-align: right;">Page 140</p>
<p>1 Q. Did you ever tell any sales associate that</p> <p>2 it was improper for them to talk with other sales</p> <p>3 associates about how much money they had earned?</p> <p>4 A. Well, as my own opinion --</p> <p>5 Q. Well, let me just focus you here.</p> <p>6 Did you ever tell a sales associate that</p> <p>7 they were not permitted to tell other sales associates</p> <p>8 how much money they had earned?</p> <p>9 A. No.</p> <p>10 Q. Did you ever hear any other manager at Polo</p> <p>11 Ralph Lauren in San Francisco tell any sales associates</p> <p>12 that they were not permitted to share their salary</p> <p>13 information with any other associate?</p> <p>14 A. No.</p> <p>15 Q. You have a personal opinion about this you</p> <p>16 had -- about this specific item?</p> <p>17 A. Well, I don't discuss my salary to anybody.</p> <p>18 Q. Okay. And have you ever been instructed</p> <p>19 that you're not entitled to do that?</p> <p>20 A. Well, when I read my employee handbook, when</p> <p>21 I started with the company, I do recall not to tell</p> <p>22 anybody about -- not to indulge [sic] your salary with</p> <p>23 other staff.</p> <p>24 Q. And you haven't done that?</p> <p>25 A. No.</p> <p style="text-align: right;">Page 139</p>	<p>1 Is that when employees within the</p> <p>2 San Francisco store were generally paid?</p> <p>3 A. Yes.</p> <p>4 Q. It goes on to state, quote:</p> <p>5 Payment will include base salary, as</p> <p>6 well as overtime payment earned during</p> <p>7 the prior two-week period, closed quote.</p> <p>8 I may have asked this question before.</p> <p>9 I think I did, but just to make sure, You're</p> <p>10 unaware of any premium overtime payment made to sales</p> <p>11 associates since you've been operations manager; is that</p> <p>12 true?</p> <p>13 A. There are no premium overtime for sales</p> <p>14 associates.</p> <p>15 Q. Okay. I'm going to show you what we've</p> <p>16 marked as Exhibit 5 to the Valerie Harrison deposition,</p> <p>17 and represent to you that these are certain pages from a</p> <p>18 document what was provided to us through the discovery</p> <p>19 process by Mr. Goines' office. It's entitled, "Polo</p> <p>20 Ralph Lauren Retail Handbook, 2002, Volume 2."</p> <p>21 Do you recall a retail employee handbook</p> <p>22 being issued in about 2002 that was referred to as</p> <p>23 "Volume 2"?</p> <p>24 A. Yes.</p> <p>25 Q. And was this document rolled out to sales</p> <p style="text-align: right;">Page 141</p>

36 (Pages 138 to 141)

1 CERTIFICATION OF DEPOSITION OFFICER

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13 and true record of said testimony; and that the witness

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I, KATY LEONARD, duly authorized to

administer oaths pursuant to Section 2093(b) of the

California Code of Civil Procedure, hereby certify that

the witness in the foregoing deposition was by me sworn

to testify to the truth, the whole truth and nothing but

the truth in the within-entitled cause; that said

deposition was taken at the time and place therein

stated; that the testimony of the said witness was

thereafter transcribed by means of computer-aided

transcription; that the foregoing is a full, complete

and true record of said testimony; and that the witness

was given an opportunity to read and correct said

deposition and to subscribe the same.


I further certify that I am not of counsel

or attorney for either or any of the parties in the

foregoing deposition and caption named, or in any way

interested in the outcome of this cause named in said

caption.


KATY LEONARD, CSR 11599

Page 261

EXHIBIT 31.

Golden Gate Reporting

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANN OTSUKA, an individual; JANIS KEEFE, an individual; CORINNE PHIPPS, an individual; and JUSTIN KISER, an individual; individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

POLO RALPH LAUREN CORPORATION; a Delaware Corporation; POLO RETAIL, LLC, a Delaware Corporation; POLO RALPH LAUREN CORPORATION, a Delaware Corporation, doing business in California as POLO RETAIL CORP;

FASHIONS OUTLET OF AMERICA, INC., a Delaware Corporation and DOES 1-500, inclusive,

Defendants.

DEPOSITION OF VALERIE ANN HARRISON

DATE: August 10, 2007

TIME: 10:08 a.m.

LOCATION: 120 Kearny Street
Suite 3200
San Francisco, California

REPORTED BY: Mary E. Garland
Certified Shorthand Reporter
License Number 4721

Page 1

<p>1 your department?</p> <p>2 MR. GOINES: Objection. Overbroad.</p> <p>3 Q. BY MR. KITCHIN: You can answer.</p> <p>4 MR. GOINES: What policies?</p> <p>5 THE WITNESS: Yeah, I guess we're going to have</p> <p>6 to talk specifics. I mean, I felt that, yes, we were</p> <p>7 consistent in the Home department.</p> <p>8 Q. BY MR. KITCHIN: Were there any policies that</p> <p>9 you were aware of that Polo had instituted on a</p> <p>10 companywide basis that you, for one reason or the other,</p> <p>11 decided to apply inconsistently to your sales</p> <p>12 associates?</p> <p>13 A. Like? Anything specifically?</p> <p>14 Q. Anything that you --</p> <p>15 A. No.</p> <p>16 Q. -- understood to be a Polo policy that you</p> <p>17 decided, for some reason or the other, to apply to your</p> <p>18 sales associates inconsistently?</p> <p>19 A. No.</p> <p>20 Q. And was that important, to be consistent, for</p> <p>21 purposes of fairness?</p> <p>22 A. I think so.</p> <p>23 Q. Have you take a look at page 777, Exhibit 4.</p> <p>24 There's a category, "General Security." Do you see</p> <p>25 that? The third bullet point says, "Bag checks must be</p> <p style="text-align: right;">Page 90</p>	<p>1 indicated was applied consistently; is that correct?</p> <p>2 A. Yes.</p> <p>3 (Exhibit 5 marked for identification.)</p> <p>4 Q. BY MR. KITCHIN: Exhibit 5 is a "Retail</p> <p>5 Employee Handbook 2002 - Volume 2." Do you recall there</p> <p>6 being a number of revisions or volumes of the retail</p> <p>7 employee handbook that came out in the 2002 time frame?</p> <p>8 A. I don't recall.</p> <p>9 MR. GOINES: And just for the record, this is</p> <p>10 just a portion of what was produced as part of the</p> <p>11 retail employee handbook. It appears that the Bates</p> <p>12 are -- there are pages that you've elected not to</p> <p>13 include in this exhibit?</p> <p>14 MR. KITCHIN: Yes. You'll see, Bill, that most</p> <p>15 of the manuals, I've just included some of the pages</p> <p>16 that I'd like to ask questions about.</p> <p>17 MR. GOINES: I just wanted to make sure that I</p> <p>18 understood the exhibit.</p> <p>19 MR. KITCHIN: Right.</p> <p>20 Q. Do you recall any modifications of the policies</p> <p>21 on commission payments that were made in the 2002 time</p> <p>22 frame, other than the restructure of the payroll system?</p> <p>23 A. Not that I can recall.</p> <p>24 Q. Were there any modifications that you recall</p> <p>25 during that time frame that were made to the returns</p> <p style="text-align: right;">Page 92</p>
<p>1 performed anytime an employee leaves the store."</p> <p>2 Was that policy applied consistently when you --</p> <p>3 were department manager of Home Collections?</p> <p>4 A. Yes.</p> <p>5 Q. Did you see that policy being applied</p> <p>6 inconsistently or not applied to any other sales</p> <p>7 associates in the store?</p> <p>8 A. Not that I can recall ever.</p> <p>9 Q. Did you ever see any of the sales associates</p> <p>10 who worked for Polo leaving during the day out of any</p> <p>11 other door except for the employee exit?</p> <p>12 A. Not that I can recall.</p> <p>13 Q. How about managers? Did you see them exiting</p> <p>14 out of any other door during the time that you worked at</p> <p>15 Polo?</p> <p>16 A. Not that I can recall.</p> <p>17 Q. Didn't Kim Babka use the front door on</p> <p>18 occasion?</p> <p>19 A. I wouldn't know.</p> <p>20 Q. If you'd take a look at page 778, the next</p> <p>21 page. Right-hand column says "Bag Inspection."</p> <p>22 A. Mm-hm.</p> <p>23 Q. Again, it says that, "All packages are subject</p> <p>24 to inspection by store management."</p> <p>25 That policy, you were aware of, and you</p> <p style="text-align: right;">Page 91</p>	<p>1 policies?</p> <p>2 A. Not that I can recall that, either.</p> <p>3 Q. Are there any modifications that you recall</p> <p>4 that were made by Polo Ralph Lauren during the entire</p> <p>5 course of your employment regarding product returns and</p> <p>6 how those product returns might impact employee wages?</p> <p>7 A. Not that I've ever heard.</p> <p>8 Q. A product can be returned by a Polo customer at</p> <p>9 anytime; is that correct?</p> <p>10 A. I think it varied over like -- the policy did</p> <p>11 vary, although I can't speak to that, I don't recall all</p> <p>12 that. And in general, we try to discourage, like if</p> <p>13 they had gone past whatever the policy was, as far as</p> <p>14 returning and the number of days. But, yes, if the</p> <p>15 customer pushed hard enough, we would return it.</p> <p>16 Q. And you in the Home Collections department were</p> <p>17 selling some pretty large ticket items; correct?</p> <p>18 A. That's correct.</p> <p>19 Q. You sold couches; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And chairs?</p> <p>22 A. Yes.</p> <p>23 Q. And on occasion, those were delivered and then</p> <p>24 returned; is that correct?</p> <p>25 A. Very rarely.</p> <p style="text-align: right;">Page 93</p>

<p>1 that. I mean, now that I read that, I obviously know, 2 so. 3 Q. So just have to look at -- I don't have my 4 calendar here, which would tell us if that's 2006. I 5 believe it is. So that would have been about a year 6 ago. Does that time frame make sense as to when you 7 had the meeting with the other managers and Tin when he 8 indicated that the arrears program was being 9 discontinued? 10 A. Again, I don't know time. I can't recall 11 timelines, as far as that goes. 12 Q. Does it seem to you like it was as long as 13 almost two and a half years ago, or does it seem more 14 recent than that? 15 A. As far as discontinuing it? 16 Q. Yes. When you were informed that it was going 17 to be discontinued. 18 A. Again, I don't recall when we were exactly 19 informed and the lag time in between that was actually 20 discontinued. I mean, I can estimate -- I would 21 estimate from the beginning of a year or two ago is when 22 I would have guessed the whole arrears thing ended. 23 Q. And after the arrears program was terminated, 24 did you ever have a discussion with anyone from Polo 25 about the arrears program, after it was terminated?</p>	<p>1 that were working under your direction in the Home 2 Collection department were ever paid premium overtime 3 compensation? 4 A. I wouldn't know, because I didn't deal with 5 payroll on that level, unless somebody would have come 6 to me with a check saying -- asking me a question about 7 and showing me and telling me, which did not happen. 8 Q. Throughout the time that you worked for Polo, 9 you don't recall an associate ever coming to you and 10 asking you, raising an issue relating to the payment or 11 nonpayment of premium overtime compensation? 12 A. Are we talking in 2006, 2007 again? 13 Q. I'm talking anytime when you worked there, 14 whether any sales associate ever talked to you about 15 whether they were entitled to premium overtime 16 compensation. 17 A. Yes. Corinne did ask once about it. And I 18 referred her to either Kristi or Theresa, Kristi Mogel 19 or Theresa. 20 Q. Did you provide Corinne any information on that 21 issue? 22 A. No. I referred her to those two people, 23 because they would know best. 24 Q. Did you tell Corinne that she should be careful 25 with her paycheck because sometimes mistakes are made in</p>
<p style="text-align: right;">Page 122</p> <p>1 A. Not that I can recall. 2 Q. The second page of Exhibit 13 -- it's Polo 435, 3 "Fiscal 2007 Compensation Update" -- there's a reference 4 to "base plus commission," and it refers to several 5 stores, and the only one in California is Burlingame. 6 You see that? "Coinciding with the start of fiscal 7 2007, we would like to offer a 'base plus' commission 8 option for several of our stores. These stores are 9 Dallas NorthPark, Texas "West Village, San Antonio, 10 Burlingame, Chicago-Northbrook and Minneapolis." 11 Do you remember any discussion or was there 12 any discussion that you heard at Polo San Francisco 13 regarding a base plus commission system? 14 A. I don't recall that that was ever discussed for 15 San Francisco. 16 Q. Do you recall any discussions in the 2006, 17 2007 time frame at Polo regarding whether Polo sales 18 associates were entitled to premium overtime 19 compensation under any circumstances? 20 A. I don't know. 21 Q. You didn't hear any conversations relating to 22 that issue? 23 A. No. 24 Q. We're now in a fairly recent time period, 2006, 25 2007. Do you know whether any of the sales associates</p> <p style="text-align: right;">Page 123</p>	<p style="text-align: right;">Page 124</p> <p>1 a paycheck? 2 A. Be careful with her paycheck? 3 Q. Well, to carefully review her paycheck, because 4 there are mistakes that are made on the paychecks at 5 Polo? 6 A. I don't remember specifically saying that, but 7 I may have told her that she should definitely always 8 take a look at her paychecks. 9 Q. Other than Corinne Phipps, or Mullen at the 10 time, there were no other sales associates who ever 11 spoke with you about the payment of premium overtime 12 compensation? 13 A. Recently or in the past. The past, I couldn't 14 recall. I know for certain recently, no. 15 Q. We've talked a lot about the loss prevention 16 inspections that were taking place back in 2001, 2002. 17 Now I want to focus on the rest of the time period that 18 you were serving as manager of Home Collections. 19 As far as you know, during the period from 20 2002, forward, until you quit, were all sales associates 21 and managers required to undergo loss prevention 22 inspections before they left the store? 23 A. Yes. 24 Q. And at some point in time, I take it the time 25 card system that was back by Theresa Cruz's office was</p> <p style="text-align: right;">Page 125</p>

1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed August 15, 2007, at San Francisco,
22 California.

23 
24 MARY E. GARLAND, CSR 4721
25

EXHIBIT 32.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,
12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
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DEPOSITION OF KRISTI MOGEL

1 DATE: February 4, 2008

2 TIME: 10:06 a.m.

3 LOCATION: Greenberg Traurig
4 1900 University Avenue
5 Fifth Floor
6 East Palo Alto, California

7 REPORTED BY: Mary E. Garland
8 Certified Shorthand Reporter
9 License Number 4721

Page 1

Golden Gate Reporting

<p>1 Kenneth Cole Productions, and that is the law of</p> <p>2 California.</p> <p>3 MR. GOINES: The law of California requires the</p> <p>4 employer to make the breaks available.</p> <p>5 Q. BY MR. KITCHIN: Have you ever heard from any</p> <p>6 source, other than counsel, what California law's</p> <p>7 requirement is as to the compensation of employees who</p> <p>8 have missed rest breaks?</p> <p>9 A. No.</p> <p>10 Q. Let me take back that document.</p> <p>11 A. The older one?</p> <p>12 Q. Yes. This is Exhibit 8, we were looking at.</p> <p>13 Are you aware of a retail employee handbook</p> <p>14 dated 2004?</p> <p>15 A. In general? There maybe a couple versions out</p> <p>16 there, so.</p> <p>17 Q. Okay.</p> <p>18 A. It seems as if there are.</p> <p>19 Q. So do you have a specific recollection as to</p> <p>20 whether any employee handbook, other than the 2007</p> <p>21 handbook, states that it is the manager's responsibility</p> <p>22 to ensure that appropriate breaks are taken?</p> <p>23 A. Again, I wouldn't be able to speak to where</p> <p>24 it's written. I just will tell you it's certainly part</p> <p>25 of our culture. So I don't know. I don't think -- I've</p>	<p>1 A. Yes.</p> <p>2 Q. Have you performed any loss prevention searches</p> <p>3 in the La Jolla store?</p> <p>4 A. Yes.</p> <p>5 Q. Have you performed loss prevention inspections</p> <p>6 in the South Coast Plaza store?</p> <p>7 A. No.</p> <p>8 Q. Have you performed loss prevention inspections</p> <p>9 in the Beverly Hills store?</p> <p>10 A. Yes.</p> <p>11 Q. Have you performed loss prevention inspections</p> <p>12 in any of the Malibu stores?</p> <p>13 A. No.</p> <p>14 Q. Have you performed loss prevention inspections</p> <p>15 in the Palm Desert store?</p> <p>16 A. No.</p> <p>17 Q. Have you performed any loss prevention</p> <p>18 inspections in either of the Rugby stores?</p> <p>19 A. No.</p> <p>20 Q. Do any of the stores that I've just mentioned</p> <p>21 have security personnel who are currently assigned to</p> <p>22 perform loss prevention inspections?</p> <p>23 A. Assigned to the store?</p> <p>24 Q. Yes.</p> <p>25 MR. GOINES: Are you talking about independent</p>
Page 150	Page 152
<p>1 never been presented with any questions around that.</p> <p>2 Q. Since you began working for Polo in 2003, has</p> <p>3 it been the policy of Polo Ralph Lauren to conduct loss</p> <p>4 prevention searches of every employee before they leave</p> <p>5 the store?</p> <p>6 A. Yes.</p> <p>7 Q. And has it been the policy to conduct those</p> <p>8 searches both when an employee is leaving at the end of</p> <p>9 their shift and anytime that they're leaving during the</p> <p>10 course of their shift?</p> <p>11 A. Yes.</p> <p>12 Q. That includes management-level personnel?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever performed a loss prevention or</p> <p>15 bag check inspection?</p> <p>16 A. Yes.</p> <p>17 Q. On many, many occasions?</p> <p>18 A. Anytime I'm available and I can help out.</p> <p>19 Q. And have you performed loss prevention</p> <p>20 inspections in the San Francisco store?</p> <p>21 A. Yes.</p> <p>22 Q. And have you performed any loss prevention</p> <p>23 inspections in the Burlingame store?</p> <p>24 A. Yes.</p> <p>25 Q. The Palo Alto store?</p>	<p>1 of -- that's their sole function?</p> <p>2 Q. BY MR. KITCHIN: Well, they can have many</p> <p>3 functions, but one of their functions being the</p> <p>4 performance of loss prevention inspections.</p> <p>5 A. There is an asset protection staff in the</p> <p>6 Beverly Hills store.</p> <p>7 Q. And is that the only store in which loss</p> <p>8 prevention or asset protection personnel works?</p> <p>9 A. Where they're designated to that store? Yes.</p> <p>10 Q. And is that person, as part of his or her</p> <p>11 responsibility -- or those persons -- permitted to</p> <p>12 perform loss prevention inspections on employees leaving</p> <p>13 the Beverly Hills store?</p> <p>14 A. Yes.</p> <p>15 Q. Do managers in Beverly Hills, on occasion, also</p> <p>16 perform loss prevention searches?</p> <p>17 A. Yes.</p> <p>18 Q. Is the asset protection personnel assigned to</p> <p>19 the Beverly Hills store there throughout the time that</p> <p>20 sales associates are working within the store?</p> <p>21 A. As in "there," do you mean are they scheduled?</p> <p>22 Q. Yes.</p> <p>23 A. Yes.</p> <p>24 Q. So how many days a week is the Beverly Hills</p> <p>25 store open?</p>
Page 151	Page 153

39 (Pages 150 to 153)

<p>1 A. Seven.</p> <p>2 Q. And is there a loss prevention person there on</p> <p>3 each of those days?</p> <p>4 A. We just added a second position there; but for</p> <p>5 some time, it was only with one person. So, no. There</p> <p>6 were several days there was no one present.</p> <p>7 Q. And during the days when that person wasn't</p> <p>8 present, then managers would perform the loss prevention</p> <p>9 inspections?</p> <p>10 A. Yes. And during the days when they were</p> <p>11 present, managers would perform the loss -- the security</p> <p>12 inspection.</p> <p>13 Q. At the conclusion of the latest shift that</p> <p>14 works in the Beverly Hills store, to your knowledge, is</p> <p>15 a loss prevention or asset protection person generally</p> <p>16 on duty at that time?</p> <p>17 A. If they're scheduled. Again, it depends on</p> <p>18 their schedule and their shifts.</p> <p>19 Q. Does that mean that sometimes the asset</p> <p>20 protection person is there at the end of the final shift</p> <p>21 at the store and sometimes they're not?</p> <p>22 A. Correct.</p> <p>23 Q. Have you ever observed asset protection</p> <p>24 personnel performing loss prevention inspections in the</p> <p>25 Beverly Hills store?</p>	<p>1 Q. Are there any other stores that, since you</p> <p>2 began working for Polo, had on-site asset protection</p> <p>3 personnel?</p> <p>4 A. No. We have a regional asset protection</p> <p>5 manager who will rotate between stores at times, but</p> <p>6 that would not be his primary role.</p> <p>7 Q. Would you take a look at Exhibit 24, on page</p> <p>8 37, or Bates stamped 1538. The right-hand column is</p> <p>9 "General Security."</p> <p>10 A. Yes.</p> <p>11 Q. The third bullet point reads:</p> <p>12 "Bag checks must be performed anytime an</p> <p>13 employee leaves the store. Each employee must</p> <p>14 inform a manager that he or she is about to</p> <p>15 leave the store with a bag, box, or any other</p> <p>16 item used to carry merchandise. When the</p> <p>17 manager arrives, the employee should then punch</p> <p>18 out (for lunch or end of shift) and proceed to</p> <p>19 have all bags inspected by the manager before</p> <p>20 exiting the store."</p> <p>21 To your knowledge, is this procedure -- that</p> <p>22 is, an employee finding a manager before they clock out</p> <p>23 -- being followed in all of the stores over which you</p> <p>24 have some duties and responsibilities at this time?</p> <p>25 A. To my knowledge, I wasn't aware of this</p>
Page 154	Page 156
<p>1 A. Yes.</p> <p>2 Q. And where are those inspections performed?</p> <p>3 A. There are two public entrances and exits. It's</p> <p>4 in the back side of the building, facing the alley. We</p> <p>5 call that the valet entrance. That's where those are</p> <p>6 performed.</p> <p>7 Q. And in the Beverly Hills store, is that the</p> <p>8 only door, under normal circumstances, that an employee</p> <p>9 may enter or exit?</p> <p>10 A. Yes. Unless the alarm is set and the store's</p> <p>11 literally at closing mode; then everyone needs to leave</p> <p>12 out of the alarmed door.</p> <p>13 Q. And is that one of the other -- that's not the</p> <p>14 door that leads out to valet?</p> <p>15 A. Correct. It's a nonpublic door, and it's</p> <p>16 through the employee locker room.</p> <p>17 Q. So at the end of a business day, for those</p> <p>18 sales associates who are working that later shift and</p> <p>19 are closing the store, do they then exit out of this</p> <p>20 other door, not the valet door?</p> <p>21 A. No. The associates would primarily leave out</p> <p>22 of the valet door. It's the managers who stay well</p> <p>23 after the store closes to do any more remaining store-</p> <p>24 closing functions. So it's predominantly the management</p> <p>25 team that would leave out of the alarmed door.</p>	<p>1 terminology.</p> <p>2 Q. Prior to April 2007, to your knowledge, was it</p> <p>3 the policy or practice of any store over which you had</p> <p>4 some duties and responsibilities to have employees find</p> <p>5 a manager to perform a loss prevention inspection before</p> <p>6 they clocked out?</p> <p>7 A. Logistically, it would be difficult to do,</p> <p>8 because many times the computers where you can clock out</p> <p>9 are not near the exit. So, again, this is something</p> <p>10 that is new discussion for me right here today.</p> <p>11 Q. Has it been generally the practice in all of</p> <p>12 the California retail stores over which you have some</p> <p>13 duties and responsibilities for the sales associates to</p> <p>14 clock out prior to the time that they find a manager who</p> <p>15 is available to perform a loss prevention search?</p> <p>16 A. Yes. They would clock out, typically, collect</p> <p>17 their belongings, and leave the store.</p> <p>18 Q. Have you ever learned from any source, other</p> <p>19 than perhaps counsel in this action, that employees of</p> <p>20 Polo Ralph Lauren in California had complained that they</p> <p>21 were being required to wait what they believed was an</p> <p>22 unreasonable amount of time to have loss prevention or</p> <p>23 bag check inspections performed at the end of their</p> <p>24 shifts?</p> <p>25 A. No, I don't recall any formal complaints around</p>
Page 155	Page 157

40 (Pages 154 to 157)

1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed February 12, 2008, at San Francisco,
22 California.

23 
24 MARY E. GARLAND, CSR 4721
25

EXHIBIT 33.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF VALERIE ANN HARRISON
25

DATE: August 10, 2007

TIME: 10:08 a.m.

LOCATION: 120 Kearny Street
Suite 3200
San Francisco, California

REPORTED BY: Mary E. Garland
Certified Shorthand Reporter
License Number 4721

Page 1

1 topics you were being trained in?
 2 A. There were videos and there was the handbook.
 3 Q. And do you recall specifically which videos you
 4 were shown?
 5 A. It's so long, I don't recall. I'm sorry. I
 6 know that there's a series.
 7 Q. During this initial part of your employment at
 8 Polo, did Cynthia or Todd alert you to any kind of hot
 9 button issues for you to be specifically careful about
 10 while working at Polo?
 11 A. Not that I recall.
 12 Q. As part of that training, did you receive any
 13 information about loss prevention inspections of
 14 employees?
 15 A. That we were supposed to, obviously, do them
 16 before we left, each person left, managers were supposed
 17 to do that; and that we were supposed to check bags and
 18 purchases.
 19 Q. Were you instructed that employees were
 20 required to use any specific exit in the building?
 21 A. Yes. We were supposed to use the back exit
 22 that goes down the back hallway.
 23 Q. And were you told that employees were
 24 prohibited from using either -- well, take it one at a
 25 time -- using the Home Collections door?

Page 26

1 Q. And so anyone who was in management level at
 2 the Polo store could inspect your bags when you exited
 3 the building?
 4 A. That's correct.
 5 Q. With respect to sales associates, were you
 6 instructed as to who would be permitted to conduct bag
 7 inspections of them before leaving the building?
 8 A. It was the same, management.
 9 Q. Were you instructed that sales associates were
 10 required to have bag inspections done at anytime they
 11 left the building?
 12 A. Yes.
 13 Q. The back exit, did you refer to that as the
 14 employee exit? Is there --
 15 A. I can't recall specifically.
 16 Q. I'm trying get the terms down.
 17 So if I refer to it as the back exit, you'll
 18 know what I'm talking about?
 19 A. The back door.
 20 Q. The back door? Okay.
 21 Was the back door physically locked during
 22 store hours?
 23 A. From the outside.
 24 Q. From the outside. So you could open the door
 25 from the inside?

Page 28

1 A. Yes.
 2 Q. And were you instructed that employees were not
 3 permitted to enter or exit through the main doors to the
 4 store?
 5 A. Yes.
 6 Q. And were you instructed that there were any
 7 consequences that would be imposed on employees who
 8 violated the prohibition in using those two exits?
 9 A. I believe that the person would be written up,
 10 was the policy.
 11 Q. Were you instructed that you were required to
 12 undergo loss prevention inspections prior to exiting the
 13 building?
 14 A. Yes.
 15 Q. And did those loss prevention inspections take
 16 place whether it was leaving for lunch or leaving at the
 17 end of the day?
 18 A. Yes.
 19 Q. If you wanted to go out and get a coffee
 20 outside of the building, were you required personally to
 21 undergo a loss prevention inspection?
 22 A. Yes.
 23 Q. And who was permitted to conduct those
 24 inspections of you personally?
 25 A. A member of management.

Page 27

1 A. There's an alarm, and you had to have a key in
 2 order to turn off the alarm. You could push the door,
 3 it was open, but it would set the alarm off.
 4 Q. And who had keys to -- strike that.
 5 The keys that you had, was that to disarm the
 6 alarm?
 7 A. Yes. And to get inside the back door.
 8 Q. So you could enter the back door with your key
 9 without setting off the alarm?
 10 A. That's correct.
 11 Q. Who had keys to the back door, if you know?
 12 A. All members of management.
 13 Q. Did any sales associates, that you're aware of,
 14 have keys to the back door lock?
 15 A. No.
 16 Q. You referred to an employee manual that you
 17 received when you first began at Polo. Was it a single
 18 employment manual or was there more than one employment
 19 manual that you were provided?
 20 A. I believe it was only one.
 21 Q. Do you remember if there was an employee manual
 22 that dealt with compensation that was a smaller manual
 23 than the Polo Ralph Lauren employee handbook?
 24 A. I don't recall that.
 25 Q. During your initial training at Polo, were you

Page 29

8 (Pages 26 to 29)

1 CERTIFICATION OF DEPOSITION OFFICER

2
3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed August 15, 2007, at San Francisco,
22 California.


23 
24 MARY E. GARLAND, CSR 4721
25

EXHIBIT 34.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,
12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF ROSALINDA WALLWORK
25

26 DATE: November 13, 2007

27 TIME: 10:02 a.m.

28 LOCATION: 1900 University Avenue
29 Fifth Floor
30 East Palo Alto, California

31 REPORTED BY: Mary E. Garland
32 Certified Shorthand Reporter
33 License Number 4721
34

35 Page 1

Golden Gate Reporting

<p>1 A. About six years. 2 Q. And what led you to move from Sony to Polo in 3 about 2004? 4 A. I worked in the technology industry, and I 5 thought working in clothing would be a good career move. 6 Q. Prior to working at Sony, where did you work? 7 A. I work at Gap, which is where I'm employed now. 8 Q. And what did you do for Gap back then? 9 A. I worked as a sales associate and managed their 10 Los Gatos store; and then just moved up the ranks into 11 management, moved to San Francisco. 12 Q. When were you last employed as a sales 13 associate for Gap, approximately? 14 A. Oh, you know what? No. I started in 15 management for Gap. I'm sorry. I was a sales associate 16 for Miller's; and then my manager there, we both moved 17 over to Gap. Pardon. 18 Q. And Miller's was what? 19 A. Very similar to Gap. Casual clothing. 20 Q. And you were a sales associate there? 21 A. Yes. 22 Q. What was the position that you took when you 23 first joined Polo? 24 A. A key carrier. 25 Q. And for which department?</p>	<p>1 Q. And did you do that? 2 A. Yes. 3 Q. Did you do that for lunch breaks? 4 A. Yes. 5 Q. And did you do it at the end of the shift, the 6 end of the day? 7 A. Yes. 8 Q. And at the time you were a key holder, were you 9 still in the Ladies' department? 10 A. Yes. 11 Q. When you were a sales associate, prior to 12 becoming a key holder, were you required to go through 13 loss prevention inspections every time you left the 14 building? 15 A. No. 16 Q. You were not -- even before you became a key 17 holder -- 18 A. I was not allowed to do bag checks prior to 19 that. 20 Q. So when you were just a sales associate, did 21 you have to undergo -- 22 A. Oh. 23 Q. -- loss prevention inspections to leave the 24 building? 25 A. Yes.</p>
<p>Page 42</p>	<p>Page 44</p>
<p>1 A. I'm sorry. Hold on. I started as a sales 2 associate, and then became a key carrier in a very short 3 period of time. 4 Q. And sales associate for which department? 5 A. Ladies'. 6 Q. And who was your manager when you started? 7 A. Tin Hua. 8 Q. He was the general manager? 9 A. Yes. 10 Q. Who was your department manager in Women's? 11 A. We did not have one. 12 Q. Then you became a key holder? 13 A. Mm-hm. 14 Q. Yes? 15 A. Yes. 16 Q. And what is a key holder at Polo? 17 A. A key holder is -- how I would describe it is 18 somebody who starts in sales and wants a management 19 position, so you kind of juggle both. 20 Q. So you had some manager duties, some sales 21 associate's duties? 22 A. Yes. Mm-hm. 23 Q. As a key holder, did you have the authority to 24 conduct loss prevention inspections of sales associates? 25 A. Yes.</p>	<p>1 Q. And how would you arrange to have a loss 2 prevention inspection performed? 3 A. Just -- 4 MR. GOINES: You're talking about when she was 5 a sales associate? 6 MR. KITCHIN: Yes. I'm focussing -- 7 THE WITNESS: Just by saying that I'm going to 8 lunch or that I'm leaving the building, and they would 9 check my bag. 10 Q. BY MR. KITCHIN: And so at lunchtime, if you 11 could describe the process of leaving the building to 12 me, that would be helpful. 13 A. Okay. You tell someone that you're going on 14 your break, you walk to the back, they check your bag, 15 and you walk out. 16 Q. And when in that process do you check out -- or 17 clock out? 18 A. Before you leave the sales floor. 19 Q. So at that time, in 2004, the timekeeping 20 system was coupled with the point-of-sale system; is 21 that correct? 22 A. Yes. 23 Q. So within the Ladies' department, how many 24 sales associates would be typically working with you? 25 A. Total or in a given day?</p>
<p>Page 43</p>	<p>Page 45</p>

12 (Pages 42 to 45)

1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed November 26, 2007, at San Francisco,
22 California.


23 
24 MARY E. GARLAND, CSR 4721
25

EXHIBIT 35.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 -----X
5 ANN OTSUKA, an Individual; JANIS
6 KEEFE, an individual, CORINNE PHIPPS,
7 an individual, and JUSTIN KISER,
8 an individual, individually and
9 on behalf of all others similarly
10 situated,

11 Plaintiffs.

12 v.

No. C-07-02780-SI

13 POLO RALPH LAUREN CORPORATION,
14 a Delaware Corporation, POLO
15 RETAIL, LLC, a Delaware Corporation,
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation doing business
18 in California as POLO RETAIL CORP.,
19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation, and DOES 500,
21 inclusive,

22 Defendants.

23 -----X

24 December 6, 2007
25 New York, New York
26 Time: 10:26 a.m.
27 Volume 1, Pages 130

28
29 Deposition of SHARONDA WEATHERSPOON, taken on behalf
30 of the Plaintiffs, at Greenberg Traurig, Met Life Building,
31 200 Park Avenue, New York, New York, commencing at 10:26
32 a.m., December 6, 2007, before Anthony Armstrong, a Notary
33 Public and Certified Shorthand Reporter of the State of New
34 York.

35
Page 1

<p>1 A. As far as bag check inspections.</p> <p>2 Q. And what are those guidelines?</p> <p>3 A. That the bag checks should normally be</p> <p>4 conducted at the front door, and that anyone exiting</p> <p>5 the building needs to ensure that they do -- any</p> <p>6 associate or employee needs to have their bag -- their</p> <p>7 bags or belongings checked. And managers are not able</p> <p>8 to put their hands inside of anyone's bag if they are</p> <p>9 not able to -- they are not able to see to the bottom.</p> <p>10 They do have to ask the employee to remove some of the</p> <p>11 items or just move them around so that way they can see</p> <p>12 to the bottom.</p> <p>13 Q. Who is permitted to conduct bag checks?</p> <p>14 A. Managers and supervisors. Are you talking</p> <p>15 about currently right now?</p> <p>16 Q. Right now.</p> <p>17 A. Managers and supervisors.</p> <p>18 Q. Is there a category of employee called</p> <p>19 supervisors?</p> <p>20 A. Yes.</p> <p>21 Q. And tell me what that category is.</p> <p>22 A. What do you mean by category?</p> <p>23 Q. Well, you have managers, you have assistant</p> <p>24 managers. And then is there another category of people</p> <p>25 called supervisors?</p>	<p>1 store is open?</p> <p>2 A. No.</p> <p>3 Q. Do they have more limited coverage than other</p> <p>4 employees? Are they part-time, full-time?</p> <p>5 MR. CAPOBIANCO: Objection to form.</p> <p>6 MR. KITCHIN: Let me re-ask the question.</p> <p>7 BY MR. KITCHIN:</p> <p>8 Q. So it sounds like most of your stores in</p> <p>9 California have employees that are called supervisors;</p> <p>10 is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you have described what their duties are.</p> <p>13 And they have the authority to conduct bag checks?</p> <p>14 A. Yes.</p> <p>15 Q. Does the number of managers, including general</p> <p>16 managers and assistant managers, working at any one</p> <p>17 time within a store vary store to store?</p> <p>18 A. Yes.</p> <p>19 Q. So there is -- how many assistant managers do</p> <p>20 you have in your largest or most busy store?</p> <p>21 A. Four.</p> <p>22 Q. And which store is that?</p> <p>23 A. Cabazon.</p> <p>24 Q. The Cabazon factory outlet with four managers,</p> <p>25 are all four of those managers on-duty every single</p>
<p>Page 62</p> <p>1 A. Yes.</p> <p>2 Q. What do supervisors do?</p> <p>3 A. Supervisors are responsible for helping and</p> <p>4 assisting to manage the sales floor and the stock</p> <p>5 process.</p> <p>6 Q. The stock process?</p> <p>7 A. Yes, the process by which we process shipment.</p> <p>8 Q. Are supervisors salaried employees?</p> <p>9 A. No.</p> <p>10 Q. Are they sales associates who have been given</p> <p>11 extra duties?</p> <p>12 A. They are hourly employees.</p> <p>13 Q. Are they hired as a supervisor?</p> <p>14 A. Yes.</p> <p>15 Q. And what -- how many supervisors -- do all</p> <p>16 factory outlet stores in California have employees who</p> <p>17 are hired as supervisors?</p> <p>18 A. No.</p> <p>19 Q. Do you know how many stores in California have</p> <p>20 supervisors within their employment?</p> <p>21 A. The only stores that would not have</p> <p>22 supervisors are any of our children's outlet stores or</p> <p>23 our luxury outlet stores, do not have supervisors.</p> <p>24 Q. Is a supervisor always -- is one or more</p> <p>25 supervisors always on duty during the time that the</p> <p>Page 63</p>	<p>Page 64</p> <p>1 day?</p> <p>2 A. No.</p> <p>3 Q. Is there staffing at the Cabazon store where</p> <p>4 there is a specific number of managers, including the</p> <p>5 general manager, who need to be on duty during a</p> <p>6 specific day?</p> <p>7 A. There are always at least two managers</p> <p>8 scheduled on any particular day.</p> <p>9 Q. That's true at the Cabazon store?</p> <p>10 A. Yes.</p> <p>11 Q. Is it true at all the other stores?</p> <p>12 A. Yes.</p> <p>13 Q. So in any day, because it's -- the stores are</p> <p>14 typically open more than eight hours; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. So any particular day there, generally, at</p> <p>17 least two managers would have worked during that day?</p> <p>18 A. Yes.</p> <p>19 Q. Managers' schedules sometimes overlap?</p> <p>20 A. Yes.</p> <p>21 Q. Are they -- is generally one of the managers,</p> <p>22 kind of, an opening manager and one a closing manager?</p> <p>23 A. Generally.</p> <p>24 Q. So generally at the end of the store's day, is</p> <p>25 there generally one manager on duty at that time?</p> <p>Page 65</p>

Golden Gate Reporting

<p>1 A. Yes, generally.</p> <p>2 Q. Sometimes, I take it in busy holiday seasons</p> <p>3 or inventory time, there may be more than one manager</p> <p>4 in the store at the time that the store closes?</p> <p>5 A. Yes.</p> <p>6 Q. But typically, absent those special needs,</p> <p>7 there would be one manager on duty at the end of the</p> <p>8 day?</p> <p>9 A. Yes. When you say at the end of day, do you</p> <p>10 mean end of the day -- do you mean -- what do you mean</p> <p>11 by end of the day?</p> <p>12 Q. Good question. Let's ask it.</p> <p>13 For the end of the day, under one scenario,</p> <p>14 when the store closes to the public?</p> <p>15 A. Yes.</p> <p>16 Q. Would there typically be one manager on duty</p> <p>17 at that time?</p> <p>18 A. Yes.</p> <p>19 Q. And at the end of the day when everyone in the</p> <p>20 store or the last person in the store is ready to go</p> <p>21 home, taking that as the definition of the end of the</p> <p>22 day, would there typically be one manager on duty at</p> <p>23 that time?</p> <p>24 A. That would vary.</p> <p>25 Q. So, typically, when the store is being closed</p>	<p>1 Q. Except for the holiday season or busy times,</p> <p>2 is it typical that there is either -- that there is one</p> <p>3 manager, assistant manager, or supervisor on duty when</p> <p>4 the store is being closed to the public, one of those</p> <p>5 three categories, general manager, assistant manager or</p> <p>6 supervisor?</p> <p>7 A. Yes.</p> <p>8 Q. And typically, excluding busy times of the</p> <p>9 year when special needs are present, when the store is</p> <p>10 being buttoned up at the end of the day and everyone is</p> <p>11 going home, is there typically either a general</p> <p>12 manager, a manager, or a supervisor in the store?</p> <p>13 A. Yes.</p> <p>14 Q. In all of the factory outlet stores at the end</p> <p>15 of the business day, the customer day, when no more</p> <p>16 customers are permitted to come into the store, are --</p> <p>17 is the door or are the doors locked?</p> <p>18 A. At the end of the business day, yes, but</p> <p>19 normally once the last customer in the store actually</p> <p>20 leaves the store.</p> <p>21 Q. So when all the customers are gone and the</p> <p>22 store is closed to the public, all of the doors are</p> <p>23 locked?</p> <p>24 A. Yes.</p> <p>25 Q. And who has keys to those doors?</p>
<p>1 at the end of the customer day, when it's being locked</p> <p>2 or closed with no more customers to come in, generally</p> <p>3 there is one manager on duty?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And then there are things that the</p> <p>6 sales associates and manager do after the door is</p> <p>7 closed to the public, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And at that time, those individuals are</p> <p>10 performing those duties in finishing up, cleaning up,</p> <p>11 and folding, and doing the data tasks. Typically, is</p> <p>12 there a single manager who is on duty at that time?</p> <p>13 A. That varies.</p> <p>14 Q. How does that vary?</p> <p>15 A. Because there could either be a manager on</p> <p>16 duty or a supervisor on duty at that time.</p> <p>17 Q. Okay. Thank you. So, typically, is there a</p> <p>18 manager and a supervisor on duty and working at the</p> <p>19 time that the store is being closed to the public?</p> <p>20 A. It varies.</p> <p>21 Q. How does it vary?</p> <p>22 A. There could be a manager and a supervisor, a</p> <p>23 manager and two managers or it could be a supervisor.</p> <p>24 Q. Just a supervisor?</p> <p>25 A. Yes.</p>	<p>1 A. Managers, general managers, and supervisors.</p> <p>2 Q. And in any of the factory outlet stores, are</p> <p>3 there -- is there any way for a sales associate to</p> <p>4 leave the building or leave the store without unlocking</p> <p>5 a door or having a door unlocked?</p> <p>6 A. Yes.</p> <p>7 Q. Is that in some specific stores that you can</p> <p>8 think of or in all the stores?</p> <p>9 A. Well, in order for them to leave the store,</p> <p>10 they would need to leave out of the back door, which</p> <p>11 actually has a panic alarm and does not require someone</p> <p>12 to unlock it because you can open it and the panic</p> <p>13 alarm would sound.</p> <p>14 Q. Is that all the case for all the stores in</p> <p>15 California?</p> <p>16 A. Yes.</p> <p>17 Q. So if there is a fire or something and the</p> <p>18 manager is incapacitated and you can't find the key,</p> <p>19 you can still get out of the building?</p> <p>20 A. Yes.</p> <p>21 Q. Are employees permitted under normal</p> <p>22 circumstances to go through that emergency -- call it</p> <p>23 an emergency door?</p> <p>24 A. What do you mean by "normal circumstances"?</p> <p>25 Q. Well, if a sales associate wants to go outside</p>

Page 66

Page 68

Page 67

Page 69

18 (Pages 66 to 69)

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C E R T I F I C A T E

I, Anthony Armstrong, a Certified
Shorthand Reporter and Notary Public within
and for the State of New York, do hereby
certify:

That SHARONDA WEATHERSPOON, the witness
whose testimony is hereinbefore set forth, was
duly sworn by me and that such testimony is a
true record of the testimony given by such
witness.

I further certify that I am not related
to any of the parties by blood or marriage,
and that I am in no way interested in the
outcome of this matter.

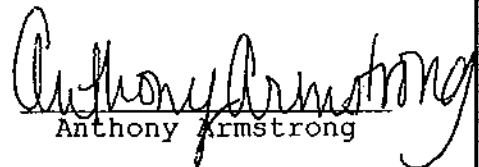

Anthony Armstrong

EXHIBIT 36.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;
6 JANIS KEEFE, an individual;
7 CORINNE PHIPPS, an individual;
8 and JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

Case No. c-07-02780-SI

12 and

13 POLO RALPH LAUREN CORPORATION,
14 a Delaware corporation; POLO
15 RETAIL, LLC, a Delaware corporation;
16 POLO RALPH LAUREN CORPORATION, a

17 Delaware corporation, doing
18 business in California as POLO
19 RETAIL CORP; FASHIONS OUTLET OF
20 AMERICA, INC., a Delaware
21 corporation; and DOES 1-500,
22 inclusive,

23 Defendants.
24
25

26 DEPOSITION OF THERESA CRUZ

27 DATE: August 20, 2007

28 TIME: 10:00 a.m.

29 LOCATION: LAW OFFICE OF PATRICK R. KITCHIN
30 565 Commercial Street
31 Fourth Floor
32 San Francisco, California 94111

33 REPORTED BY: Katy Leonard
34 Certified Shorthand Reporter
35 License Number 11599

Page 1

Golden Gate Reporting

<p>1 involvement, if you have an involvement in the process,</p> <p>2 of hiring a new sales associate at Polo San Francisco.</p> <p>3 Are you involved in the interviewing process</p> <p>4 for sales associates?</p> <p>5 A. No.</p> <p>6 Q. Are you involved in the decision-making as</p> <p>7 to which sales associates to hire?</p> <p>8 A. No.</p> <p>9 Q. Are you involved in helping to set up a</p> <p>10 hired sales associate into the payroll system?</p> <p>11 A. Yes.</p> <p>12 Q. And do you have any assistants that work for</p> <p>13 you?</p> <p>14 A. No.</p> <p>15 Q. So, you do all this on your own?</p> <p>16 A. Yes.</p> <p>17 Q. And, so, do you work with the corporate</p> <p>18 office to set up someone in the payroll system?</p> <p>19 A. No. I can go to the workstation and do</p> <p>20 that.</p> <p>21 Q. Okay.</p> <p>22 A. It's called the "Lawson."</p> <p>23 Q. L-a-w-s-o-n?</p> <p>24 A. That's correct.</p> <p>25 Q. And, so, you enter in specific information</p>	<p>1 who will go on a leave of absence. We use that form for</p> <p>2 termination, also. And other changes. Let's say if we</p> <p>3 terminate the person, if there's any changes on their --</p> <p>4 where to mail the final paycheck.</p> <p>5 Q. Okay. What other tasks are you involved</p> <p>6 with in bringing in a new sales associate into the Polo</p> <p>7 San Francisco store?</p> <p>8 A. Um, just training with the Tradewind. I do</p> <p>9 the walk-through with the new hire.</p> <p>10 Q. And the walk-through involves what?</p> <p>11 A. Walk-through in the store only.</p> <p>12 Q. So, you show them around?</p> <p>13 A. Yes.</p> <p>14 Q. Do you have any involvement in providing</p> <p>15 them training related to loss prevention?</p> <p>16 A. Um, no.</p> <p>17 Q. When you're doing your walk-through, do you</p> <p>18 show them where the employee exit is?</p> <p>19 A. Yes.</p> <p>20 Q. And do you describe to them the process that</p> <p>21 they're required to go through in order to leave the</p> <p>22 store?</p> <p>23 A. Yes.</p> <p>24 Q. And what specifically do you tell them about</p> <p>25 leaving the store?</p>
Page 46	Page 48
<p>1 about the employee to set them up as a user of the</p> <p>2 Lawson system?</p> <p>3 A. Yes.</p> <p>4 Q. And how does the Lawson system differ from</p> <p>5 the Tradewind system?</p> <p>6 A. The Lawson is for new-hire employees. After</p> <p>7 you have put in all the information, it will give you</p> <p>8 the employee number -- it will assign an employee</p> <p>9 number.</p> <p>10 Q. What involvement do you have, in addition to</p> <p>11 having a new sales associate set up through the Lawson</p> <p>12 system, to assist a new sales associate to get into the</p> <p>13 system and start working at Polo?</p> <p>14 A. I prepare the new hire -- the new-hire</p> <p>15 paperwork for them.</p> <p>16 Q. What is included in the new-hire paperwork?</p> <p>17 A. The PAF.</p> <p>18 Q. What is a PAF?</p> <p>19 A. Personal Authorization Form.</p> <p>20 Q. And what does that Personal Authorization</p> <p>21 Form relate to?</p> <p>22 A. Um, you fill in the Social Security number,</p> <p>23 the information of the employee, if she will be hired</p> <p>24 full-time, part-time, or temporary, and how many hours.</p> <p>25 And it also pertained -- we use that form for someone</p>	<p>1 A. Leaving the store? They need to call a</p> <p>2 department manager to check them out.</p> <p>3 Q. And is it -- are you authorized to let</p> <p>4 people out the exit?</p> <p>5 A. Yes.</p> <p>6 Q. Is Tin -- or, was he authorized to let</p> <p>7 people out the exit?</p> <p>8 A. Yes.</p> <p>9 Q. All department managers had the ability to</p> <p>10 let people out of the exit?</p> <p>11 A. Yes.</p> <p>12 Q. Anyone else, other than the general manager,</p> <p>13 you, and the department managers, who had the ability to</p> <p>14 let people out the employee exit?</p> <p>15 A. Um, all the department managers.</p> <p>16 Q. Do all department managers have keys to turn</p> <p>17 off the alarm at the back exit?</p> <p>18 A. Yes.</p> <p>19 Q. And the key that they have also gives them</p> <p>20 access from the outside; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And the door coming into the store through</p> <p>23 the -- the employee exit, that's locked from the</p> <p>24 outside?</p> <p>25 A. Yes.</p>
Page 47	Page 49

13 (Pages 46 to 49)

1 CERTIFICATION OF DEPOSITION OFFICER

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13 and true record of said testimony; and that the witness

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I, KATY LEONARD, duly authorized to

administer oaths pursuant to Section 2093(b) of the

California Code of Civil Procedure, hereby certify that

the witness in the foregoing deposition was by me sworn

to testify to the truth, the whole truth and nothing but

the truth in the within-entitled cause; that said

deposition was taken at the time and place therein

stated; that the testimony of the said witness was

thereafter transcribed by means of computer-aided

transcription; that the foregoing is a full, complete

and true record of said testimony; and that the witness

was given an opportunity to read and correct said

deposition and to subscribe the same.

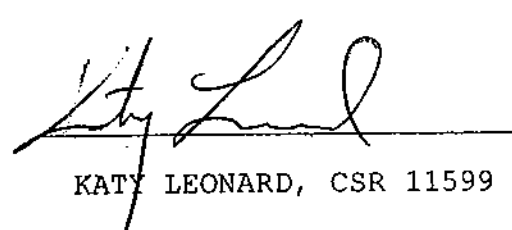
I further certify that I am not of counsel

or attorney for either or any of the parties in the

foregoing deposition and caption named, or in any way

interested in the outcome of this cause named in said

caption.


KATY LEONARD, CSR 11599

Page 261

EXHIBIT 37.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,
12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;

19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24 DEPOSITION OF PHOEBE MIRELES
25

26 DATE: November 15, 2007

27 TIME: 10:15 a.m.

28 LOCATION: One Montgomery Street
29 Suite 3220
30 San Francisco, California

31 REPORTED BY: Mary E. Garland
32 Certified Shorthand Reporter
33 License Number 4721
34

Page 1

1 day?
 2 A. No.
 3 Q. That same time period, were any senior sellers
 4 scheduled to work more than eight hours in one day?
 5 A. No.
 6 Q. Same time period, when you were Women's
 7 department manager, were any sales associates regularly
 8 scheduled to work more than 40 hours in one week?
 9 A. No.
 10 Q. And senior sellers, during that time period,
 11 were they regularly scheduled to work more than 40 hours
 12 in one week?
 13 A. No.
 14 Q. Earlier you estimated that there were
 15 approximately 12 to 14 total sales associates working at
 16 the Stanford Polo store during any one period; is that
 17 correct?
 18 A. Possibly, yes.
 19 Q. On a typical day, excluding the holiday season,
 20 how many sales associates would be working in the store
 21 on any given day?
 22 A. I would say anywhere from eight to 11;
 23 typically, ten.
 24 Q. And during the holiday season, typically, how
 25 many sales associates, including senior sellers, would

Page 38

1 be working in the store on any one given day?
 2 A. Maybe just a few people more, three or four, if
 3 that.
 4 Q. So you could have up to 13 people during one
 5 specific day during the holiday seasons?
 6 A. Yes.
 7 Q. Now, typically, excluding the holiday season,
 8 how many managers would be in the store during the
 9 workweek?
 10 A. If we had all positions filled at the time --
 11 myself, one, two, three, four -- up to six, possibly.
 12 Q. And would those six work on the same day
 13 together? Their shifts would be -- strike that.
 14 How many of them would be working in the store
 15 at one given time during the non-holiday season?
 16 A. Well, anywhere from four to six. I mean,
 17 everyone gets two days off. So seven days a week, I
 18 mean, we could just do the math. It just depends.
 19 Q. Did you have additional managers working during
 20 the holiday seasons?
 21 A. No.
 22 Q. At the end of the shift in a non-holiday
 23 season, focusing on the time when you were Women's
 24 manager, how many managers would be in the store at the
 25 end of the day, when sales associates in the final shift

Page 39

1 are heading home?
 2 A. One -- two. There would be two.
 3 Q. Was that the same schedule, non-holiday season
 4 -- sorry, not schedule. Let me start over.
 5 Throughout the course of your employment at the
 6 Stanford Polo store, was it typical during non-holiday
 7 seasons that two managers would be at the store at
 8 closing?
 9 A. Yes. But not all the time.
 10 Q. Sometimes there would be fewer?
 11 A. Sometimes there would be one, and we would
 12 close with a senior sales associate.
 13 Q. Were any of your senior sales associates what
 14 I've heard referred to as key holders?
 15 A. No. None of them were key holders when I was
 16 there.
 17 Q. Could any senior seller do a bag inspection or
 18 a loss prevention inspection for any other sales
 19 associate?
 20 A. Yes.
 21 Q. And could senior sellers do the bag inspection
 22 for other sales associates at anytime throughout the
 23 year?
 24 A. No. It was mainly when it was their shift to
 25 close with the manager.

Page 40

1 Q. So when a senior seller was scheduled to close
 2 with a single manager in the store, that senior seller
 3 had the authority to conduct bag checks of other sales
 4 associates leaving the store?
 5 A. Yes, that is correct.
 6 Q. And the senior seller would do a bag check of
 7 the manager, as well?
 8 A. Yes. We would check each other.
 9 Q. How many senior sellers did the store have at
 10 any one time, or did it vary too much to give me a
 11 response?
 12 A. It varied.
 13 Q. What was the maximum number of senior sellers
 14 you recall working at Stanford Polo while you were
 15 employed there?
 16 A. Possibly three or four.
 17 Q. Possibly three or four working at one specific
 18 period of time?
 19 A. Yes.
 20 Q. At the end of the day, when the store was
 21 closed to the public, were the two doors locked?
 22 A. Yes.
 23 Q. And were the doors locked with a key or with
 24 like a dead-bolt kind of lock?
 25 A. It was locked with a key.

Page 41

11 (Pages 38 to 41)

Golden Gate Reporting

<p>1 Q. Who within the store had keys to those doors?</p> <p>2 A. Just the managers.</p> <p>3 Q. Did any of the senior sellers have keys to the</p> <p>4 doors?</p> <p>5 A. No.</p> <p>6 Q. So when the store is closing and the customers</p> <p>7 have all left, the doors are locked by one of the</p> <p>8 managers; correct?</p> <p>9 A. Yes.</p> <p>10 Q. Then after the doors are locked, do the sales</p> <p>11 associates generally have other duties to perform before</p> <p>12 their shift ends?</p> <p>13 A. Yes.</p> <p>14 Q. What kind of duties do they have to perform?</p> <p>15 A. There's a fold-down, whatever department needs</p> <p>16 to be folded down, fixed to our standards; which is,</p> <p>17 basically, ready to open the next morning, beautiful,</p> <p>18 and perfect, clean. Then they can clock out to go home.</p> <p>19 Q. And I'm sure it varied, but can you give me an</p> <p>20 estimate of the amount of time sales associates</p> <p>21 continued to work after the store doors were closed at</p> <p>22 the end of the day?</p> <p>23 A. I'm sorry. Can you repeat that?</p> <p>24 Q. Yes. At the end of the day, when the store's</p> <p>25 closed --</p>	<p>1 exactly. But they were given cards where they -- no, it</p> <p>2 wasn't cards. I apologize. It was all done manually at</p> <p>3 the register. Yes.</p> <p>4 Q. They would enter their employee number --</p> <p>5 A. They would enter their -- yes.</p> <p>6 Q. Prior to '04, was there kind of a timecard</p> <p>7 swipe system?</p> <p>8 A. I don't recall. I know it was different. It</p> <p>9 wasn't that process.</p> <p>10 Q. Prior to 2004, when timekeeping, punching</p> <p>11 in/punching out, was done at the point-of-sale, do you</p> <p>12 recall where sales associates would clock out or in?</p> <p>13 A. Yes. Prior to that, there was -- in the</p> <p>14 office, there was a little machine that was located by a</p> <p>15 printer, the main printer in the management office.</p> <p>16 Q. Was there a rack, with some type of card</p> <p>17 identified by sales associate?</p> <p>18 A. Yes, that is correct.</p> <p>19 Q. So they would swipe that card?</p> <p>20 A. Yes.</p> <p>21 Q. Throughout the time of your employment at</p> <p>22 Stanford, were employees required to clock in when they</p> <p>23 arrived at work?</p> <p>24 A. Yes.</p> <p>25 Q. And were they required to clock out for any</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Yes.</p> <p>2 Q. -- the sales associates do a fold-down and</p> <p>3 cleaning, how long did that process typically take?</p> <p>4 A. About a half an hour. If it was the holiday</p> <p>5 season, possibly up to an hour.</p> <p>6 Q. During the period of time from store closure to</p> <p>7 the public to the time that sales associates have</p> <p>8 finished their post-closure duties, what did the manager</p> <p>9 or the managers do? That's a terrible question. Let</p> <p>10 me rephrase that.</p> <p>11 What kind of duties, as a Women's manager, did</p> <p>12 you have at around closing time?</p> <p>13 A. Oh. Well, I was helping them fold. I was</p> <p>14 closing registers, if necessary; doing the deposit. We</p> <p>15 have an office upstairs, so. Anything operational was</p> <p>16 done, and then we would go and help the other associates</p> <p>17 fold and get out of there.</p> <p>18 Q. How many cash registers were there in the</p> <p>19 Stanford store?</p> <p>20 A. Five.</p> <p>21 Q. And throughout the time that you worked at Polo</p> <p>22 at Stanford, were sales associates able to clock in and</p> <p>23 clock out through the point-of-sale system?</p> <p>24 A. There was a period where we did that, yes. And</p> <p>25 I believe it was from '04, on, I think. I don't recall</p> <p style="text-align: right;">Page 43</p>	<p style="text-align: right;">Page 44</p> <p>1 rest breaks?</p> <p>2 A. "Rest breaks" meaning their 15-minute breaks?</p> <p>3 Q. Correct.</p> <p>4 A. No.</p> <p>5 Q. Were they required to clock out for their lunch</p> <p>6 break?</p> <p>7 A. Yes.</p> <p>8 Q. Was that scheduled for an hour per employee?</p> <p>9 A. Yes.</p> <p>10 Q. And when they came back from lunch, were they</p> <p>11 required to clock back in?</p> <p>12 A. Yes.</p> <p>13 Q. And then at the conclusion of their shift,</p> <p>14 they'd clock out, I take it?</p> <p>15 A. Yes.</p> <p>16 Q. And that happened regardless of whether it was</p> <p>17 the swipe system or the point-of-sale system?</p> <p>18 A. Yes.</p> <p>19 Q. Now, at the close of the shift, when you were</p> <p>20 working as Women's manager, you, I take it, worked some</p> <p>21 shifts where you were a closer?</p> <p>22 A. Yes.</p> <p>23 Q. Was one of your duties on closing the store to</p> <p>24 count the cash in the registers?</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 45</p>

12 (Pages 42 to 45)

1 CERTIFICATION OF DEPOSITION OFFICER

2
3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed November 26, 2007, at San Francisco,
22 California.

23 
24 MARY E. GARLAND, CSR 4721
25

EXHIBIT 38.

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual;)
6 JANIS KEEFE, an individual,)
7 CORINNE PHIPPS, an)
8 individual; and RENEE DAVIS,)
9 an individual; individually)
10 and on behalf of all others)
11 similarly situated,)
12 Plaintiffs,)
13

14 - vs-) No. C-07-02780-SI
15

16 POLO RALPH LAUREN CORPORATION;))
17 a Delaware Corporation; POLO)
18 RETAIL, LLC., a Delaware)
19 Corporation, POLO RALPH LAUREN))
20 CORPORATION, a Delaware)
21 Corporation, doing business in))
22 California as POLO RETAIL)
23 CORP; FASHIONS OUTLET OF)
24 AMERICA, INC., a Delaware)
25 Corporation,)
26 Defendants.)
27

28
29
30 The deposition of HARVEY RESNICK, called
31 by the Plaintiffs for examination, pursuant to
32 subpoena and pursuant to the Federal Rules of
33 Civil Procedure for the United States District
34 Courts pertaining to the taking of depositions,
35 taken before Cynthia J. Conforti, Certified
36 Shorthand Reporter, at Suite 2500, 77 West Wacker
37 Drive, Chicago, Illinois, commencing at the hour
38 of 10:09 a.m. on the 23rd day of April, A.D.,
39 2008.

Page 1

Golden Gate Reporting

<p>1 Q. Were you involved in scheduling sales 2 associates in your department? 3 A. Yes. 4 Q. And did your sales associates in your 5 department typically work a 40-hour or 6 40-hour-plus work week? 7 MR. GOINES: Objection, compound. 8 THE WITNESS: I think we scheduled them 9 for 40 hours. Somewhere between 35 and 40 hours 10 is a pretty normal retail schedule. 11 BY MR. KITCHIN: 12 Q. Did sales associates working at the San 13 Francisco Polo stores for the closing shift have a 14 set time where all sales associates were to finish 15 their day? 16 A. The day would end when the store closed, 17 and then the next -- it depended on. 18 Could be 15 minutes to an hour could be 19 spent recovering, folding merchandise, stacking 20 it, making the store ready actually for opening 21 the next day. 22 Q. Did you typically release your sales 23 associates at the end of the day at the same time 24 or were there instances where an individual needed 25 to stay to do something else while others in your</p>	<p>1 Q. Do you know if that process, that is, 2 releasing certain employees who have completed 3 their section and retaining others who were still 4 working on their section also happened in other 5 departments at the Polo store? 6 A. You know, I don't really know how other 7 managers did it. 8 I think just, trying to recall, often the 9 other areas were more quickly put back together, 10 and whoever was there was allowed to leave. 11 Usually the other areas would finish before the 12 men's areas. 13 Q. Was there any kind of policy in effect at 14 Polo when you worked there that required sales 15 associates at the end of the day to clock out at a 16 certain time? 17 MR. GOINES: Objection, vague, lack of 18 foundation. 19 THE WITNESS: Clocking out was a function 20 of when you were finished working you'd clock out, 21 leave the building. 22 BY MR. KITCHIN: 23 Q. Did you ever need to clock an employee in 24 or out for any reason? 25 A. I think on occasion if somebody forgot to</p>
Page 26	Page 28
<p>1 department left? 2 A. Well, sort of by area. When an area was 3 finished, when the recovery was finished and the 4 person was -- 5 MR. GOINES: I apologize. Did you say 6 recovery? 7 THE WITNESS: Yes, yes. 8 A retail term I guess. 9 BY MR. KITCHIN: 10 Q. Cleaning up the department. 11 A. Cleaning up. 12 MR. GOINES: Got you. 13 THE WITNESS: Making it ready for -- so if 14 there were three areas and three employees, they 15 each had to do their own area theoretically. 16 Depending at holiday times. 17 The men's, that first floor was always the 18 most difficult to clean up at the end of the day, 19 so we tried to make sure there were a lot of 20 people available. 21 BY MR. KITCHIN: 22 Q. So would it be accurate to say that some 23 people on certain days were released before other 24 people in your department were released? 25 A. Yes. Yes.</p>	<p>1 clock themselves in, it was something that could 2 be done, you know, so that they got paid 3 appropriately. Clocking them out was not 4 something I normally did. 5 Q. Would you describe in detail the process 6 you personally went through at the end of the 7 store day, that is, from the point that the 8 customer entrances are locked to the time that you 9 left the building what would you do? 10 A. Well, mainly was just to prepare the 11 selling area for the next day's business. That 12 really took up most of my time. 13 There was a store shutting-down process 14 that managers were supposed to participate in that 15 I rarely did because the demands of the floor were 16 so great and it just seemed to require so much of 17 the focus, so if there was another manager who, as 18 you area was finished earlier, I would typically, 19 you know, allow them or I shouldn't say allow. 20 I preferred that they took care of the 21 store shutdown so that they were available to do 22 it so that I could stay with my staff and finish 23 preparing our area for the next day. 24 Q. On occasion did you participate in what's 25 described as the closing?</p>
Page 27	Page 29

8 (Pages 26 to 29)

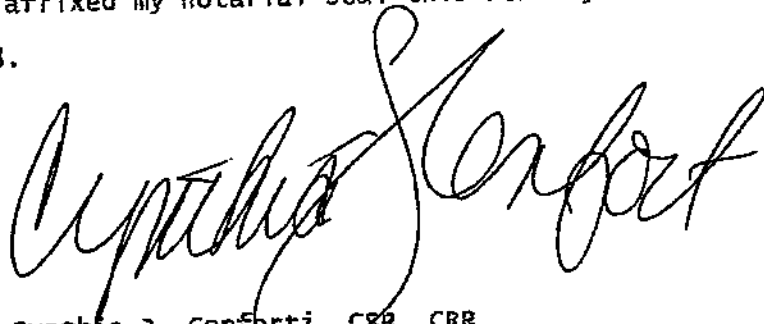
certcert

1 I further certify that the signature to the
2 foregoing deposition was not waived by counsel for
3 the respective parties.

4 I further certify that the taking of this
5 deposition was pursuant to subpoena, and that
6 there were present at the deposition the attorneys
7 hereinbefore mentioned.

8 I further certify that I am not counsel for
9 nor in any way related to the parties to this
10 suit, nor am I in any way interested in the
11 outcome thereof.

12 IN TESTIMONY WHEREOF: I have hereunto set my
13 hand and affixed my notarial seal this 7th day of
14 May, 2008.

15
16
17
18
19 

20 Cynthia J. Conforti, CSR, CRR
21 Notary Public, Cook County, Illinois

22 CSR License No. 084-003064
23
24
25

EXHIBIT 39.

Golden Gate Reporting

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 ANN OTSUKA, an individual; JANIS No. C-07-02780-SI
6 KEEFE, an individual; CORINNE
7 PHIPPS, an individual; and
8 JUSTIN KISER, an individual;
9 individually and on behalf of
10 all others similarly situated,

11 Plaintiffs,

12 vs.

13 POLO RALPH LAUREN CORPORATION;
14 a Delaware Corporation; POLO
15 RETAIL, LLC, a Delaware Corporation;
16 POLO RALPH LAUREN CORPORATION, a
17 Delaware Corporation, doing business
18 in California as POLO RETAIL CORP;
19 FASHIONS OUTLET OF AMERICA, INC., a
20 Delaware Corporation and DOES 1-500,
21 inclusive,

22 Defendants.
23 /

24
25 DEPOSITION OF PHOEBE MIRELES

26 DATE: November 15, 2007

27 TIME: 10:15 a.m.

28 LOCATION: One Montgomery Street
29 Suite 3220
30 San Francisco, California

31 REPORTED BY: Mary E. Garland
32 Certified Shorthand Reporter
33 License Number 4721
34
35

Page 1

<p>1 made was earlier than they actually quit working?</p> <p>2 A. I don't recall.</p> <p>3 Q. During the course of your employment at the</p> <p>4 Stanford Shopping Center, were sales associates</p> <p>5 provided, in any form, a written description or a</p> <p>6 memorialization of their clock-in and clock-out times?</p> <p>7 A. I can't recall.</p> <p>8 Q. I'm going to show you what we've marked as</p> <p>9 Exhibit 20, and just ask you if you've seen this form</p> <p>10 entitled "Time Clock Correction Form."</p> <p>11 A. It doesn't look familiar.</p> <p>12 Q. Do you recall any other type of form that you</p> <p>13 used during the course of your employment at the</p> <p>14 Stanford Shopping Center to memorialize or make a record</p> <p>15 of any time clock adjustment?</p> <p>16 A. No, I don't remember there being any other</p> <p>17 form, or ever seeing that one.</p> <p>18 Q. Did you ever hear from any source that the time</p> <p>19 clock records of sales associates at the Stanford</p> <p>20 Shopping Center Polo store were being adjusted back down</p> <p>21 to the time that they had been scheduled to work from</p> <p>22 the time that they had actually worked?</p> <p>23 A. No, I don't think --</p> <p>24 Q. Do you understand the question?</p> <p>25 A. Yeah. I can't recall that.</p>	<p>1 it would depend if they had a late client, they would</p> <p>2 stay later. If they were a closing shift and they</p> <p>3 started at 12:30, a lot of times, we'd be out before</p> <p>4 9:30. So I can't -- I don't remember exactly, I mean.</p> <p>5 Q. So I take it that sales associates, on a</p> <p>6 regular basis, clocked in at one time, beginning of the</p> <p>7 shift, and clocked out more than eight hours later?</p> <p>8 A. On occasion. I wouldn't say absolutely no to</p> <p>9 that.</p> <p>10 Q. The closing shift, during a regular workweek,</p> <p>11 they were supposed to finish and go home at what time?</p> <p>12 A. I would say they started at 12:30; and 9:30, at</p> <p>13 the latest. And, really, we'd only stay the full hour</p> <p>14 after closing possibly during the holidays, because</p> <p>15 that's when it gets a little chaotic and messy.</p> <p>16 Q. So 12:30 to 9:30 is a total of nine hours.</p> <p>17 A. Yes.</p> <p>18 Q. And employees would take an hour lunch break;</p> <p>19 correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And they were not compensated for that one-hour</p> <p>22 lunch break?</p> <p>23 A. That's correct.</p> <p>24 Q. Can you tell me whether it was more common for</p> <p>25 an employee to clock out, during nonholiday periods,</p>
<p>Page 78</p>	<p>Page 80</p>
<p>1 Q. A sales associate working a full shift --</p> <p>2 A. Right.</p> <p>3 Q. -- as a full-time employee at the Stanford Polo</p> <p>4 store, during the course of your employment there, was</p> <p>5 scheduled to work eight-hour shifts; is that correct?</p> <p>6 A. Yes, that is correct.</p> <p>7 Q. And so at the conclusion of the eight hours,</p> <p>8 did all sales associates clock out at the exact time</p> <p>9 that they were scheduled to clock out?</p> <p>10 A. No. They would clock out when they were</p> <p>11 finished.</p> <p>12 Q. So, on occasion, were sales associates on the</p> <p>13 clock for more than eight hours in one day?</p> <p>14 A. There's a possibility.</p> <p>15 Q. Do you recall that specifically, that anyone</p> <p>16 clocked out after their shift was supposed to end?</p> <p>17 A. I can't recall.</p> <p>18 Q. Was it a regular occurrence that sales</p> <p>19 associates would clock out before their eight-hour shift</p> <p>20 was complete?</p> <p>21 A. I don't recall that.</p> <p>22 Q. So, generally, did sales associates work at</p> <p>23 least eight hours if they were working full-time as a</p> <p>24 sales associates at the Stanford Polo store?</p> <p>25 A. That's correct. Or less, because if -- well,</p>	<p>1 before 9:30 p.m. or sometime after 9:30 p.m.?</p> <p>2 A. I can't recall.</p> <p>3 Q. If any sales associate clocked out at anytime</p> <p>4 after 9:30 p.m., was their time record adjusted back to</p> <p>5 9:30, under any circumstance, to your knowledge?</p> <p>6 A. No, I can't recall that.</p> <p>7 Q. So if a person worked a full shift, their time</p> <p>8 records should show the precise time that they clocked</p> <p>9 out; is that correct?</p> <p>10 A. From what I remember, yeah.</p> <p>11 Q. How often, if you could provide me an estimate,</p> <p>12 did sales associates in the Palo Alto store work more</p> <p>13 than eight hours on a given day?</p> <p>14 MR. GOINES: Objection. Overbroad.</p> <p>15 Q. BY MR. KITCHIN: Is it possible for you to</p> <p>16 provide such an estimate?</p> <p>17 A. No. I -- it just -- it varies.</p> <p>18 Q. Throughout the course of your employment at the</p> <p>19 Palo Alto Polo store, did you ever become aware that</p> <p>20 employees, sales associates, were working more than</p> <p>21 eight hours in any one day?</p> <p>22 A. Yeah. It's possible.</p> <p>23 Q. And did you ever become aware of sales</p> <p>24 associates working more than 40 hours in one week?</p> <p>25 A. I'm -- it was possible, but it was very rare.</p>
<p>Page 79</p>	<p>Page 81</p>

21 (Pages 78 to 81)

1 CERTIFICATION OF DEPOSITION OFFICER
2

3 I, MARY E. GARLAND, duly authorized to administer
4 oaths pursuant to Section 2093(b) of the California Code
5 of Civil Procedure, do hereby certify that the witness
6 in the foregoing deposition was duly sworn by me to
7 testify to the truth, the whole truth and nothing but
8 the truth in the within-entitled cause; that said
9 deposition was taken at the time and place therein
10 stated; that the testimony of said witness was
11 thereafter transcribed by means of computer-aided
12 transcription under my direction; that the foregoing is

13 a full, complete and true record of said testimony; and
14 that the witness was given an opportunity to read and
15 correct said deposition and to subscribe to the same.

16 I further certify that I am not of counsel or
17 attorney for either or any of the parties in the
18 foregoing deposition and caption named, nor in any way
19 interested in the outcome of the cause named in said
20 caption.

21 Executed November 26, 2007, at San Francisco,
22 California.

23 
24 MARY E. GARLAND, CSR 4721
25